Official Gazette

REPUBLIC OF THE PHILIPPINES

EDITED AT THE OFFICE OF THE PRESIDENT, UNDER COMMONWEALTH ACT NO. 638
ENTERED AS SECOND-CLASS MATTER, MANILA POST OFFICE, DECEMBER 26, 1905

VOL. 55 MANILA, PHILIPPINES, SEPTEMBER 21, 1959 NO. 38

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MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 357

CREATING THE MUNICIPALITY OF SISON IN THE PROVINCE OF SURIGAO

Pursuant to the provisions of section sixty-eight of the Revised Administrative Code, and upon the recommendation of the Provincial Board of Surigao, the barrios of Sison, Dakungpatag, Biyabid, Mayag, Tagbayani, and Mabuhay, together with their respective sitios, all of the Municipality of Surigao, province of Surigao, are hereby segregated from the said municipality and organized into an independent municipality to be known as the municipality of Sison with the seat of government at the barrio of Sison.

The municipality of Sison shall have the following boundaries:

"Beginning from the point at the peak of Mt. Tendido and marked (A) on the plan, describe an imaginary straight line about 40° NE. traversing the point where Calang Creek intersects with Surigao-Badas road at Km. No. 15, marked (X) on the plan, to the point at the back drop of Mt. Hinaksaan, marked (B) on the plan; thence follow a course about 75° SE, traversing the peak of Mt. Manbilibid, to its point of intersection with the existing boundary line between the mother municipality, Surigao, and the municipality of Taganaan, and marked (C) on the plan; thence follow same existing boundary line to the point where a concrete marker 15 is located, at Km. No. 22 along the Surigao-Badas road and marked (D) on the plan; thence follow same line to the point of common intersection with other boundary lines, and marked (E) on the plan; and thence northward following the existing boundary line which separates this part of the mother municipality with the municipality of Anao-aon to point of beginning." (This description is taken from the technical description prepared and submitted by the Highway District Engineer for Surigao and embodied in the attached map of the municipality of Surigao showing the proposed municipality of Sison which map is on file with this Office.)

The municipality of Surigao shall have its present territory minus the portions thereof which are included in the municipality of Sison.

The municipality of Sison shall begin to exist upon the appointment and qualification of the mayor, vice-mayor, and a majority of the councilors thereof but not earlier than January 1, 1960, and upon the certification by the Secretary of Finance that said municipality is financially capable of implementing the provisions of the Minimum Wage Law and providing for all the statutory obligations and ordinary essential services of a regular municipality and that the mother municipality of Surigao, after the segregation therefrom of the territory comprised in the municipality of Sison, can still maintain creditably its municipal government, meet all ts statutory and contractual obligations, and provide for its essential municipal services.

Done in the City of Manila, this 15th day of September, in the year of Our Lord, nineteen hundred and fifty-nine, and of the Independence of the Philippines, the fourteenth.

CARLOS P. GARCIA
President of the Philippines

By the President:

ENRIQUE C. QUEMA
Assistant Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 615

EXTENDING THE NATIONAL FUND CAMPAIGN OF THE BOY SCOUTS OF THE PHILIPPINES UP TO SEPTEMBER 15, 1959

WHEREAS, the period from July 1 to August 15, 1959, was set aside for the national fund campaign of the Boy Scouts of the Philippines in places outside of Greater Manila under Proclamation No. 595 dated June 10, 1959;

WHEREAS, the campaign actually started after the termination of the 10th Boy Scouts World Jamboree or just fifteen days before the end of the campaign period;

NOW, THEREFORE, I, Carlos P. Garcia, President of the Philippines, do hereby extend the national fund campaign of the Boy Scouts of the Philippines in places outside of Greater Manila up to September 15, 1959.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 7th day of September, in the year of Our Lord, nineteen hundred and fifty-nine, and of the Independence of the Philippines, the fourteenth.

[SEAL] CARLOS P. GARCIA
President of the Philippines

By the President:

JUAN C. PAJO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 616

DECLARING TUESDAY, SEPTEMBER 15, 1959, AS A SPECIAL PUBLIC HOLIDAY IN THE PROVINCES OF SULU, COTABATO, ZAMBOANGA DEL NORTE, ZAMBOANGA DEL SUR, DAVAO, LANAO DEL NORTE, LANAO DEL SUR, BUKIDNON, AND PA-

LAWAN AND IN THE CITIES OF ZAMBOANGA, BASILAN, DAVAO, ILIGAN, MARAWI, AND COTABATO

In connection with the feast of Maulid-en-Nabi, one of the most important holidays for Muslims, I, Carlos P. Garcia, President of the Philippines, pursuant to the authority vested in me by section 30 of the Revised Administrative Code, do hereby declare Tuesday, September 15, 1959, as a special public holiday in the provinces of Sulu, Cotabato, Zamboanga del Norte, Zamboanga del Sur, Davao, Lanao del Norte, Lanao del Sur, Bukidnon, and Palawan and in the cities of Zamboanga, Basilan, Davao, Iligan, Marawi, and Cotabato.

Muslim officials and employees of the Government, both national and local, performing their duties and functions outside of the provinces and cities above stated, shall be exempted from duty during this feast day which, for purposes of this proclamation, shall be considered as a special public holiday for said officials and employees in their respective stations.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 7th day of September, in the year of Our Lord, nineteen hundred and fifty-nine, and of the Independence of the Philippines, the fourteenth.

[SEAL] CARLOS P. GARCIA
President of the Philippines

By the President:

JUAN C. PAJO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 617

REVOKING PROCLAMATION NO. 67, SERIES OF 1927, AND DECLARING THE PARCEL OR PARCELS OF LAND EMBRACED THEREIN, SITUATED IN THE BARRIO OF SILAWIT, MUNICIPALITY OF CAUAYAN, PROVINCE OF ISABELA, ISLAND OF LUZON, OPEN TO DISPOSITION UNDER THE PROVISION OF THE PUBLIC LAND ACT

Upon the recommendation of the Secretary of Agriculture and National Resources, I, Carlos P. Garcia, President of the Philippines, do hereby revoke Proclamation No. 67, series of 1927, and declare the parcel or parcels of land embraced therein open to disposition under the provisions of Republic Act No. 274, dated June 15, 1948, in relation to the Public Land Act.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 7th day of September, in the year of Our Lord, nineteen hundred and fifty-nine, and of the Independence of the Philippines, the fourteenth.

[SEAL]

CARLOS P. GARCIA
President of the Philippines

By the President:

JUAN C. PAJO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 311

AUTHORIZING THE CCC INSURANCE CORPORATION TO BECOME A SURETY UPON OFFICIAL RECOGNIZANCES, STIPULATIONS, BONDS, AND UNDERTAKINGS

WHEREAS, section 1 of Act No. 536, as amended by Act No. 2206, provides that whenever any recognizance, stipulation, bond, or undertaking conditioned for the faithful performance of any duty or of any contract made with any public authority, national, provincial, municipal, or otherwise, or of any undertaking, or for doing or refraining from doing anything in such recognizance, stipulation, bond, or undertaking specified is, by the laws of the Philippines or by the regulations or resolutions of any public authority therein, required or permitted to be given with one surety or with two or more sureties, the execution of the same or the guaranteeing of the performance of the condition thereof shall be sufficient when executed or guaranteed solely by any corporation organized under the laws of the Philippines, having power to guarantee the fidelity of persons holding positions of public or private trust and to execute and guarantee bonds or undertakings in judicial proceedings and to agree to the faithful performance of any contract or undertaking made with any public authority;

WHEREAS, said section further provides that no head of department, court, judge, officer, board, or body, whether executive, legislative, or judicial, shall approve or accept any corporation as surety on any recognizance, stipulation, bond, contract, or undertaking unless such corporation has been authorized to do business in the Philippines in accordance with the provisions of said Act No. 536, as amended, nor unless such corporation has, by contract with the Government of the Philppines, been authorized to become a surety upon official recognizances, stipulations, bonds, and undertakings; and

WHEREAS, the CCC Insurance Corporation is a domestic corporation organized and existing under the laws of the Republic of the Philippines and fulfills the conditions prescribed by said Act No. 536, as amended.

NOW, THEREFORE, I, Carlos P. Garcia, President of the Philippines, by virtue of the powers vested in me by law, do hereby authorize the CCC Insurance Corporation to be-

come a surety upon official recognizances, stipulations, bonds, and undertakings in such manner and under such conditions as are provided by law, subject to the condition that the total amount of immigration bonds that it may issue shall not, at any time, exceed its admitted assets.

Done in the City of Manila, this 6th day of October, in the year of Our Lord, nineteen hundred and fifty-nine, and of the Independence of the Philippines, the fourteenth.

CARLOS P. GARCIA
President of the Philippines

By the President:

ENRIQUE C. QUEMA
Assistant Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 312

PROVIDING FOR THE CELEBRATION OF FAMILY WEEK AS DECLARED BY PROCLAMATION NO. 147, DATED MARCH 30, 1949

WHEREAS, in recognition of the significance and importance of the family as the pillar of the structure of our democratic way of life, the first week of December of every year was declared Family Week under Proclamation No. 147, dated March 30, 1949;

WHEREAS, the celebration of Family Week serves to highlight the continuing attention given to family life by the community through various entities of the government and private organizations; and

WHEREAS, it is necessary that steps be taken for the effective and meaningful celebration of Family Week with these entities and organizations working together;

NOW, THEREFORE, I, Carlos P. Garcia, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

1. The Family Week shall be celebrated under the auspices of the Department of Education with the cooperation of the Family Life Workshop of the Philippines.

2. A national committee is hereby created which shall be responsible for the planting and execution of the program of celebration. The committee shall be composed of the following:

The Secretary of Education	Chairman
The Chairman of the Family Life Workshop of the Philippines	Member
Representatives of the Department of Health, Department of Agriculture and Natural Resources, Department of National Defense, Social Welfare Administration, Local Governments and Civil Affairs Office, Office of the President	Members
Heads of various educational, professional, cultural and civic organizations to be invited by the Chairman of the National Committee	Members

3. The celebration shall give emphasis to the holding of conferences, seminars, or forums on various aspects of Filipino family life, and continuous evaluation, planning and implementation of program for the welfare of the Filipino family.

Done in the City of Manila, this 6th day of October, in the year of Our Lord, nineteen hundred and fifty-nine, and of the Independence of the Philippines, the fourteenth.

CARLOS P. GARCIA
President of the Philippines

By the President:

ENRIQUE C. QUEMA
Assistant Executive Secretary

REPUBLIC ACTS

Enacted during the Fourth Congress of the Philippines
Second Session

H. No. 598

[REPUBLIC ACT NO. 2521]

AN ACT CREATING THE BARRIOS OF USON, DIRAYA AND JUBANG IN THE MUNICIPALITY OF CAPUL, PROVINCE OF SAMAR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The following barrios are hereby created in the Municipality of Capul, Province of Samar:

(1) Barrio of Uson, consisting of the sitios of Luñgib, Pahot, Suriyawan, Muyac and Catandocolan;

(2) Barrio of Diraya, consisting of the sitios of Danao, Minanga, Bocason, Camayao-Payawan and Dalairo; and

(3) Barrio of Jubang, consisting of the sitios of Londres, Boquid, Mapapak, Catandocolan and Sagaosawan.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 629

[REPUBLIC ACT NO. 2522]

AN ACT CHANGING THE NAME OF SANTOL I ELEMENTARY SCHOOL IN THE MUNICIPALITY OF BIGAA, PROVINCE OF BULACAN, TO MARCIANO C. RIVERA ELEMENTARY SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of Santol I Elementary School in the Municipality of Bigaa, Province of Bulacan, is hereby changed to Marciano C. Rivera Elementary School.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 689

[REPUBLIC ACT NO. 2523]

AN ACT CREATING CERTAIN BARRIOS IN THE PROVINCE OF SURIGAO

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitios of Amontay, Macopa and Magtangali in the Municipality of Anao-aon, Province of Surigao, are converted into barrios of said municipality to be known as the barrios of Amontay, Macopa and Magtangali, respectively.

SEC. 2. The sitios of Tawagan, Panaosawon, Cabogo, Unidad, Lactudan, Palhi, Pagbahanan and Salimbabayog in the Municipality of Cagwait, Province of Surigao, are converted into barrios of said municipality to be known as the barrios of Tawagan, Panaosawon, Cabogo, Unidad, Lactudan, Palhi, Pagbahanan and Bitaugan West, respectively.

SEC. 3. The sitio of Cabawa in the Municipality of Dapa, Province of Surigao, is converted into a barrio of said municipality to be known as the barrio of Cabawa.

SEC. 4. The sitios of Tagbina, Port Lamon, Dugmanon, Sasa, Manambia, Biga-an, Maglambing and Talisay in the Municipality of Hintuan, Province of Surigao, are converted into barrios of said municipality to be known as the barrios of Tagbina, Port Lamon, Dugmanon, Sasa, Manambia, Biga-an, Maglambing and Talisay, respectively.

SEC. 5. The sitios of Bungan, Salvacion, Mandus and Sabang in the Municipality of Liñgig, Province of Surigao, are converted into barrios of said municipality to be known as the barrios of Bungan, Salvacion, Mandus and Sabang, respectively.

SEC. 6. The sitios of San Pedro, Alipao, Matinao, Tapian, Mansayao, Binga, San Francisco, Cantugas and Mainit in the Municipality of Mainit, Province of Surigao, are converted into barrios of said municipality to be known as the barrios of San Pedro, Alipao, Matinao, Tapian, Mansayao, Binga, San Francisco, Cantugas and Mainit, respectively.

SEC. 7. The sitios of Cabongboñgan, Cajuyao, Sabang, Punta Bilar, Nabago, Togboñgon, Cagutsan, Balibayon, Orok, Cagniog, Mabuhay, Mabua, Alang-alang, Aurora and Baybay in the Municipality of Surigao, Province of Surigao, are converted into barrios of said municipality to be known as the barrios of Cabongboñgan, Cajuyao, Sabang, Punta Bilar, Nabago, Togboñgan, Cagutsan, Balibayon, Orok, Cagniog, Mabuhay, Mabua Alang-alang, Aurora and Baybay, respectively.

SEC. 8. The sitios of Awasan Norte, Buanbuan, Cagbaoto, Unahan and Abaga in the Municipality of Tago, Province of Surigao, are converted into barrios of said municipality to be known as the barrios of Awasan Norte, Buanbuan, Cagbaoto, Unahan and San Roque, respectively.

SEC. 9. The sitios of Rosario, Tabontabon, Sotil and Carmen in the Municipality of Tandag, Province of Surigao, are converted into barrios of said municipality to be known as the barrios of Rosario, Tabontabon, Sotil and Carmen, respectively.

SEC. 10. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 694

[REPUBLIC ACT No. 2524]

AN ACT CONVERTING THE SITIO OF CALBAYOG, MUNICIPALITY OF MALILIPOT, PROVINCE OF ALBAY, INTO A BARRIO OF SAID MUNICIPALITY.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Calbayog, Municipality of Malilipot, Province of Albay, is converted into a barrio of said municipality to be known as the barrio of Calbayog.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 754

[REPUBLIC ACT No. 2525]

AN ACT CHANGING THE NAME OF CUASI ELEMENTARY SCHOOL IN THE BARRIO OF TONTONAN, MUNICIPALITY OF LOON, PROVINCE OF BOHOL, TO TONTONAN ELEMENTARY SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of Cuasi Elementary School in the barrio of Tontonan, Municipality of Loon, Province of Bohol, is changed to Tontonan Elementary School.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 898

[REPUBLIC ACT No. 2526]

AN ACT CHANGING THE NAME OF THE MUNICIPALITY OF PAYABON, PROVINCE OF NEGROS ORIENTAL, TO MUNICIPALITY OF BINDOY.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In order to honor the memory of one of the greatest statesmen produced by the Province of Negros Oriental, the name of the Municipality of Payabon, Province of Negros Oriental, is changed to Municipality of Bindoy.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1007

[REPUBLIC ACT No. 2527]

AN ACT CONVERTING THE SITIO OF DUNGLAYAN IN THE MUNICIPALITY OF SANTA MARIA, PROVINCE OF ILOCOS SUR, INTO A BARRIO TO BE KNOWN AS THE BARRIO OF DUNGLAYAN.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Dunglayan in the Municipality of Santa Maria, Province of Ilocos Sur, is converted into a barrio of said municipality to be known as the barrio of Dunglayan.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1076

[REPUBLIC ACT No. 2528]

AN ACT CREATING CERTAIN BARRIOS IN THE MUNICIPALITY OF BANI, PROVINCE OF PANGASINAN.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The following barrios in the Municipality of Bani, Province of Pangasinan, are created:

1. Barrio of Tiep comprising the sitios of Tiep, Calabeng, Banlag, Colobo, East Macabit Norte, Marangles, Mutdit, Roñgos Peas, Simmilya and Ondoy;

2. Barrio of Loac comprising the sitios of Loac, Tagumbao, Aporao, Pataga, Apalang, Lambes, Tambac Island and Gayaman; and

3. Barrio of Ranao comprising the sitios of Ranao, Bacari, Sinaburan, Sapa-Oñgot, Caradikid, Malimpec, Puro-Olay, Puit-dalen, Lomboy-Bugtong, Pinariric and Suñgey.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1113

[REPUBLIC ACT No. 2529]

AN ACT CHANGING THE NAME OF THE PANTAL-SAMAT PRIMARY SCHOOL IN THE BARRIO OF PANTAL-SAMAT, MUNICIPALITY OF BUGALLON, PROVINCE OF PANGASINAN, TO MAGSAYSAY PRIMARY SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the Pantal-Samat Primary School in the barrio of Pantal-Samat, Municipality of Bugallon, Province of Pangasinan, is changed to Magsaysay Primary School.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1341

[REPUBLIC ACT No. 2530]

AN ACT CHANGING THE NAME OF THE IROSIN HIGH SCHOOL IN THE MUNICIPALITY OF IROSIN, PROVINCE OF SORSOGON, TO GALLANOSA HIGH SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the Irosin High School in the Municipality of Irosin, Province of Sorsogon, is hereby changed to Gallanosa High School.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1356

[REPUBLIC ACT No. 2531]

AN ACT CHANGING THE NAME OF BARRIO BOHÓ IN THE MUNICIPALITY OF CASIGURAN, PROVINCE OF SORSOGON, TO SAN ANTONIO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of Barrio Bohó in the Municipality of Casiguran, Province of Sorsogon, is hereby changed to San Antonio.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1357

[REPUBLIC ACT No. 2532]

AN ACT CREATING THE BARRIO OF MAGSAYSAY IN THE MUNICIPALITY OF MAGALLANES, PROVINCE OF SORSOGON.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Tamboleled in the Municipality of Magallanes, Province of Sorsogon, is converted into a barrio of said municipality to be known as the barrio of Magsaysay.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1360

[REPUBLIC ACT No. 2533]

AN ACT TO CHANGE THE NAME OF THE MABINI PRIMARY SCHOOL IN THE MUNICIPALITY OF VALLADOLID, PROVINCE OF NEGROS OCCIDENTAL, TO EMILIO INFANTE PRIMARY SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the Mabini Primary School in the Municipality of Valladolid, Province of Negros Occidental, is hereby changed to Emilio Infante Primary School.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1362

[REPUBLIC ACT No. 2534]

AN ACT CREATING THE BARRIO OF TAGPUPUÑGAN IN THE MUNICIPALITY OF BABAK, PROVINCE OF DAVAO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Tagpupuñgan in the Municipality of Babak, Province of Davao, is converted into a distinct and independent barrio of said municipality to be known as the barrio of Tagpupuñgan.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1372

[REPUBLIC ACT No. 2535]

AN ACT CHANGING THE NAME OF BUAYAN ELEMENTARY SCHOOL IN THE MUNICIPALITY OF GENERAL P. SANTOS, PROVINCE OF COTABATO, TO LAGAO ELEMENTARY SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of Buayan Elementary School in the Municipality of General P. Santos, Province of Cotabato, is changed to Lagao Elementary School.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1377

[REPUBLIC ACT No. 2536]

AN ACT CHANGING THE NAME OF FRATERNIDAD STREET, DISTRICT OF PANDACAN, CITY OF MANILA, TO TEODORA SAN LUIS STREET.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of Fraternidad Street in the District of Pandacan, City of Manila, is changed to Teodora San Luis Street.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1423

[REPUBLIC ACT No. 2537]

AN ACT CHANGING THE NAME OF THE BARRIO OF CALANSAYAN IN THE MUNICIPALITY OF BATANGAS, PROVINCE OF BATANGAS, TO BARRIO CONCEPCION.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the barrio of Calansayan in the Municipality of Batangas, Province of Batangas, is changed to Barrio Concepcion.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1430

[REPUBLIC ACT No. 2538]

AN ACT CREATING CERTAIN BARRIOS IN THE MUNICIPALITY OF DARAGA, PROVINCE OF ALBAY.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitios of Bañadero in the barrio of Budiao, Salvacion in the barrio of Malabog, Malobago in the barrio of Kilicao, and Pandan in the barrio of Lacag, all in the Municipality of Daraga, Province of Albay, are separated from said barrios, and constituted into distinct and independent barrios of said municipality, to be known as the barrios of Bañadero, Salvacion, Malobago and Pandan, respectively.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1436

[REPUBLIC ACT No. 2539]

AN ACT CREATING THE BARRIO OF BOGTONG IN THE MUNICIPALITY OF BUSUANGA, PROVINCE OF PALAWAN.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Bogtong in the Municipality of Busuanga, Province of Palawan, is converted into a barrio of said municipality to be known as the barrio of Bogtong.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1458

[REPUBLIC ACT No. 2540]

AN ACT CREATING CERTAIN BARRIOS IN THE MUNICIPALITY OF OLUTANGA, PROVINCE OF ZAMBOANGA DEL SUR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The following sitios in the Municipality of Olutanga, Province of Zamboanga del Sur, are converted into barrios thereof:

1. Sitio Baganipay to be known as the barrio of Malipay;
2. Sitio Tabian to be known as the barrio of Mercedes;
3. Sitio Sibayog to be known as the barrio of Salagunting;
4. Sitio Tandu Taba to be known as the barrio of Estancia;
5. Sitio Bagurod to be known as the barrio of Balasan;
6. Sitio Dao to be known as the barrio of Dayag; and

7. Sitio Cawilan Sur to be known as the barrio of Fama.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1459

[REPUBLIC ACT No. 2541]

AN ACT CREATING CERTAIN BARRIOS IN THE MUNICIPALITY OF LIARGAO, PROVINCE OF ZAMBOANGA DEL SUR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitios of Lumañgoy, Lumpanid, Montay, Midsapin, Patang, Dipalusan, Guminambon, Dinuyog, San Miguel, Bibilog and Dipalutao in the Municipality of Liargao, Province of Zamboanga del Sur, are converted into barrios of said municipality to be known as the barrios of Lumañgoy, Lumpanid, Montay, Midsapin, Patang, Dipalusan, Guminambon, Dinuyog, San Miguel, Bibilog and Dipalutao, respectively.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1460

[REPUBLIC ACT No. 2542]

AN ACT CHANGING THE NAMES OF CERTAIN BARRIOS IN THE MUNICIPALITY OF OLUTANGA, PROVINCE OF ZAMBOANGA DEL SUR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The names of the following barrios in the Municipality of Olutanga, Province of Zamboanga del Sur, are changed as follows:

1. Barrio Pinalim to Barrio Bagdad;
2. Barrio Tandu Comot to Barrio Katipunan;
3. Barrio Bongalan to Barrio Esperanza;
4. Barrio Bontalian to Barrio Tuburan;
5. Barrio Sagasa to Barrio Malinao;
6. Barrio Calabasa to Barrio Abunda;
7. Barrio Subanipa to Barrio Solar;
8. Barrio Galais to Barrio Calines;
9. Barrio Gawilan to Barrio Noque;
10. Barrio Taguisian to Barrio Tampohan;
11. Barrio Cabatuan to Barrio Catipan; and
12. Barrio Talusan to Barrio Jerusalim.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1475

[REPUBLIC ACT No. 2543]

AN ACT CREATING THE BARRIO OF MARUCLAP IN THE MUNICIPALITY OF BATANGAS, PROVINCE OF BATANGAS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitios of Maruclap and Cotocoto in the barrio of Haliging Kanluran, Maarañgan in the barrio of Haliging Silangan, Cacawan in the barrio of Sto. Niño, and Payapa in the barrio of Talahib Payapa, all in the Municipality of Batangas, Province of Batangas, are separated from the said barrios, and constituted into a distinct and independent barrio of said municipality to be known as the barrio of Maruclap.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1483

[REPUBLIC ACT No. 2544]

AN ACT CHANGING THE NAME OF BARRIO SAN PEDRO, MUNICIPALITY OF GUMACA, PROVINCE OF QUEZON, TO BIGA.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of Barrio San Pedro, Municipality of Gumaca, Province of Quezon, is hereby changed to Biga.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1484

[REPUBLIC ACT No. 2545]

AN ACT CHANGING THE NAME OF BARRIO SAN FERNANDO, MUNICIPALITY OF GUMACA, PROVINCE OF QUEZON, TO CAMOHAGUIN.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of Barrio San Fernando, Municipality of Gumaca, Province of Quezon, is hereby changed to Camohaguin.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1487

[REPUBLIC ACT No. 2546]

AN ACT CHANGING THE NAME OF THE PANTALAN BARRIO SCHOOL IN THE MUNICIPALITY OF CARLES, PROVINCE OF ILOILO, TO TIBURCIO BETITA MEMORIAL SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the Pantalan Barrio School in the Municipality of Carles, Province of Iloilo, is changed to Tiburcio Betita Memorial School.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1525

[REPUBLIC ACT No. 2547]

AN ACT CHANGING THE NAME OF BARRIO IBABANG BANOT, MUNICIPALITY OF GUMACA, PROVINCE OF QUEZON, TO GITNANG BARRIO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of Barrio Ibabang Banot, Municipality of Gumaca, Province of Quezon, is hereby changed to Gitnang Barrio.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1550

[REPUBLIC ACT No. 2548]

AN ACT NAMING THE BARRIOS AND SITIOS IN THE MUNICIPALITY OF DIFFUN, PROVINCE OF NUEVA VIZCAYA.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The barrios and sitios in the Municipality of Diffun, Province of Nueva Vizcaya, are hereby enumerated and named as follows:

Barrio San Antonio (formerly known as Calimaturog) with its sitios of Guribang, Batarra and Navarro; Barrio San Isidro with its sitios of Rancho, Silang (formerly known as Masaysayot) and Mabini (formerly known as Amelingan); Barrio Maria Clara with its sitio of Lucban; Barrio Villa Pascua with its sitio of San Pedro; Barrio Luttuad with its sitio of Capannikian; barrio of Mañgandiñgay, with its sitios of Dallapan and Malini; barrio of Gundaway with its sitios of Cabugbogan, Dinait, Diagay, Tarlac (formerly known as Difuncia) and Dumatata; barrio of Cahel with its sitio of Nagbukel; barrio of Liwayway (formerly known as Disinaba) with its sitios of Bayabat, Simbahan and San Francisco; barrio of Ricarte with its sitios of Pakipak, Bontutan, Bender formerly known as Lanna), San Juan and Dinaliang; barrio of Tandang Sora (formerly known as Dumanisi) with its sitios of Andapat, Dumanting, Dapuñgan, Anonang, Lorad, Hunters (formerly known as Campamiento), Makate, Amugawen and Peña, and the barrios of I. Paredes, Gulac, Bannawag, La Paz, Salvacion, Sto. Tomas, Saguday, Balagbag and San Marcos (formerly known as Cannuañgan).

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1563

[REPUBLIC ACT No. 2549]

AN ACT CHANGING THE NAME OF BARRIO IPIL PEQUEÑO IN THE MUNICIPALITY OF ECHAGUE, PROVINCE OF ISABELA, TO BARRIO QUEZON.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of Barrio Ipil Pequeño in the Municipality of Echague, Province of Isabela, is hereby changed to Barrio Quezon.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

H. No. 1564

[REPUBLIC ACT NO. 2550]

AN ACT DIVIDING THE BARRIO OF MANARING IN THE MUNICIPALITY OF ILAGAN, PROVINCE OF ISABELA, INTO TWO BARRIOS TO BE KNOWN AS BARRIO MANARING PRIMERO AND BARRIO MANARING SEGUNDO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The barrio of Manaring in the Municipality of Ilagan, Province of Isabela, is hereby divided into two barrios to be known as Barrio Manaring Primero and Barrio Manaring Segundo.

SEC. 2. This Act shall take effect upon its approval.

Enacted without Executive approval, June 21, 1959.

DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS

Executive Office

PROVINCIAL CIRCULAR
(Unnumbered)

September 8, 1959

SAFETY AND ACCIDENT PREVENTION WEEK, NOVEMBER 22 TO 28, 1959, CELEBRATION OF—

To all Provincial Governors and City Mayors:

For your information, guidance, and compliance, there is quoted hereunder letter dated August 3, 1959, of the Secretary of Labor and National Chairman, National Executive Committee, Eighth Safety and Accident Prevention Week, relative to the celebration of the Week from November 22 to 28, 1959:

"Pursuant to Executive Proclamation No. 32, as amended by Proclamation No. 359, declaring the 4th week of November each year as Safety and Accident Prevention Week, we have prepared the enclosed program of activities during its forthcoming celebration from November 22 to 28, 1959. In this connection, we are counting on the active participation of the local governments to give the event a national scope.

"The enclosed program will show that the Provincial and City Executive Committees are headed by the Provincial Governors and City Mayors as Chairmen, respectively, with the Regional Labor Administrators concerned as Coordinators. They are, therefore, requested through your Office to start organizing their Committees as suggested in the said program, and hold meetings with the members to discuss the observance of the Week according to the proposed program of daily activities. The Chairmen and members of different Committees designated for each day of the Week have been duly informed of this matter, and have been advised to notify their respective provincial branches to meet the Governors or City Mayors concerned for the coordination of their activities.

"The Regional Labor Administrators have also been informed about this matter.

"Early attention to this request will be highly appreciated."

Copies of the program of activities mentioned in the above letter will be furnished, if not yet done, directly by the Department of Labor.

In the cities and municipalities where the capital of the province is located, arrangements may be made so that the observance of the Week may be done jointly by the province and city or municipality concerned.

Provincial Governors are hereby requested to have the contents hereof disseminated to all the local officials under their respective jurisdiction and see to it that the Committees are properly organized for the observance of the Week.

ENRIQUE C. QUEMA
Assistant Executive Secretary

PROVINCIAL CIRCULAR
(Unnumbered)

September 10, 1959

ELECTION—BARRIO COUNCIL

To all Provincial Governors and City Mayors:

Republic Act No. 2370, "An Act Granting Autonomy to Barrios of the Philippines", otherwise known as the Barrio Charter, has been made applicable not only to barrios in the municipalities and municipal districts but also to all barrios within the jurisdiction of Chartered cities. It shall take effect on January 1, 1960. It provides, among others, for the election of members of the barrio council in accordance with the rules prescribed therein.

For the guidance of the barrio assemblies which shall begin to function on January 1, 1960 under Republic Act No. 2370, the existing barrio councils, and all other local officials concerned, it is deemed necessary to promulgate the following detailed regulations on the conduct of the elections for members of the barrio councils:

Date of Holding Election of Barrio Council.—

Under Republic Act No. 2370, the election of members of the barrio council shall take place on the second Sunday of January of even-numbered years. The next election for members of the barrio council shall take place on the second Sunday of January, 1960.

Posting of Notices.—

At least one week before the date of the election, notices in the local dialect announcing the election of the members of the barrio council shall be posted in conspicuous places in the barrio and in

every sitio. The notices shall state the date and place of the election, and the names of the officers to be elected; namely, (a) a barrio lieutenant; (b) a barrio treasurer; (c) four councilors, and (d) vice-barrio lieutenants in such number as there are sitios; or where there are no sitios, one vice-barrio lieutenant for every two hundred inhabitants. They shall furthermore contain an appeal to all qualified electors duly registered as members of the barrio assembly to be present at the meeting of the barrio assembly to exercise their right to choose the members of their barrio council.

Qualifications of Candidates to the Barrio Council.—

A candidate for election to the barrio council (a) must be a qualified elector; (b) must have been a resident of the barrio for at least six months prior to the election; and (c) must not have been convicted of a crime involving moral turpitude or of a crime which carries a penalty of at least one year's imprisonment; Provided: That in the case of the candidate for vice-barrio lieutenant, he must also be a resident of the sitio which he shall represent.

Who Are Qualified to Vote.—

All persons who are qualified electors, have been residents of the barrio for at least six months before the date of the election, and duly registered in the list of members of the barrio assembly, are qualified to vote. In order to be a qualified elector and entitled to be registered as member of the barrio assembly and, therefore, qualified to vote, one must possess all the qualifications prescribed by section 98 of the Revised Election Code, and none of the disqualifications mentioned in section 99 of the same Code. According to said section 98, every citizen of the Philippines, whether male or female, twenty-one years of age or over, able to read and write who has been a resident of the Philippines for one year and of the municipality in which he has registered during the six months immediately preceding, who is not otherwise disqualified, may vote. According to section 99 of the same Code, the following persons shall not be qualified to vote:

(a) Any person who has been sentenced by final judgment to suffer one year or more of imprisonment, such disability not having been removed by plenary pardon.

(b) Any person who has been declared by final judgment guilty of any crime against property.

(c) Any person who has violated his allegiance to the Republic of the Philippines.

(d) Insane or feeble-minded persons.

(e) Persons who cannot prepare their ballots themselves.

List of Voters.—

Only qualified electors and duly registered in the list of members of the barrio assembly may vote. One may not be listed as a member of the barrio assembly who is not a qualified elector. Therefore, the list of members of the barrio assembly kept by the Secretary of the barrio assembly shall also serve as the basis for the list of voters. The list of voters shall be prepared separately, and shall be arranged by sitios. Said list shall contain the names, ages, and residences of the voters substantially in the following form:

LIST OF VOTERS

Barrio ....., Municipality of .....
Province of .....
1. Sitio .....

No.	Name	Age	Residence

Who Shall Conduct the Election.—

The barrio assembly shall meet and assemble at a convenient hour on the date designated by law for the holding of the regular election of members of the barrio council. The first election under the Barrio Charter shall take place on the second Sunday of January, 1960. In view of its importance the holding of the meeting for the purpose of electing the members of the barrio council shall be widely publicized by the barrio lieutenant beforehand to enable all or the overwhelming majority of the members to be present. Said barrio lieutenant shall preside over the meeting. The assembly shall without delay elect a board of three election tellers, one of whom shall be a school teacher who shall act as chairman to conduct the election, and count the votes. No candidate may be chosen as a member of the board of election tellers.

Certificate of Candidacy, Nominations.—

Immediately before the hour of votation, the election tellers shall accept written certificates of candidacy from the interested parties, and/or oral nominations of candidates for the different positions from the qualified voters present in the meeting.

How Voting Shall be Conducted; Ballot Boxes.—

After the nomination is closed, the tellers shall cause the names of the candidates to be written plainly on a blackboard facing and in full view of the voters present. To avoid confusion, the voting shall be done by sitios. Each sitio shall be allotted a voting booth, if necessary. The tellers shall have a tally sheet on which the names of the candidates for the different positions are written. Voting shall be by secret ballot unless two-thirds of the qualified voters present shall decide in favor of open voting.

In case it is decided to conduct the voting orally, the tellers shall begin the election by calling the electors one by one to specify his or her vote for his or her candidates, and announcing, noting and marking the vote cast by the elector for the candidates of his or her choice.

In case it is decided to hold the votation by secret ballot, uniform sheets of papers similar in form to the official ballot prescribed by the Election Code shall be distributed, one for each elector. The back of each blank ballot shall bear the initials of the tellers to preclude the possibility of fraud. The ballot boxes shall be prepared beforehand, and shall be so constructed that they are sufficiently safe from being tampered. After writing the names of the candidates of his choice on the ballot, the elector shall deposit the same in the box placed within the view of the electors present. The tellers shall not divulge the choice of each elector.

Voting by proxy shall not be allowed, whether the voting shall be by secret ballot or open.

Counting and Canvassing.—

After all the ballots shall have been cast and deposited in the ballot box, the tellers shall, in the presence of the watchers of the candidates, if any, immediately proceed to the counting and canvassing of votes cast for the respective candidates by noting or marking on the tally sheets the votes cast by the electors for the candidates of their choice.

Result of election; Certificate of the Tellers; Assumption of Office; Disposition of the ballot boxes.—

It shall be the duty of the tellers to announce publicly before the electors present the names of the winning candidates, and to execute a certificate in triplicate of the result of the election, immediately upon the completion of the count. The certificate shall show the date of the election, the name of the sitio and barrio, the total number of electors who voted, and the total number of votes polled by each candidate writing out the said number in words and figures. The board of election tellers shall certify on the foot of the statement that its contents are correct. Immediately after its completion, the original of said certificate shall be forwarded thru the municipal councilor in charge of the barrio to the Municipal Council, and one copy to the barrio treasurer for safekeeping. The last copy shall be deposited by the board of election tellers in the ballot box, which shall forthwith be properly sealed.

The board of election tellers shall keep in their custody the ballot box, which they shall cause to be delivered to the chief of police of the municipality for safekeeping not later than the day next following the election.

These who obtained the highest number of votes for the position for which they are candidates shall be proclaimed elected by the board of election tellers. In case of tie, the same shall be decided by drawing lots before the said board. Those proclaimed elected shall assume office immediately by taking their oath of office before any officer authorized to administer oaths. They shall serve for two years from the time of their election and qualification or until their successors shall have been duly elected and qualified.

The oath of office of members of the barrio council shall be substantially in the following form:

OATH OF OFFICE

I, ... of ....., having been elected to the Office of ....., hereby solemnly swear that I will well and faithfully discharge to the best of my ability the duties of the said position; that I will support and defend the Constitution of the Philippines; that I will bear true faith and allegiance to the same; that I will obey the laws, legal orders, and decrees promulgated by the duly constituted authorities of the Republic of the Philippines; and that I impose this obligation upon myself voluntarily, without mental reservation or purpose of evasion.

SO HELP ME GOD.

Subscribed and sworn to before me this ..... day of ....., A.D. ..... at ....., Philippines.

.....
(Officer authorized to administer oath)

Election Protests.—

Republic Act No. 2370 provides that all disputes over barrio elections shall be brought before the Justice of the Peace Court of the municipality concerned. In the determination of the case, the Justice of the Peace shall follow as closely as possible the procedure prescribed for inferior courts in Rule 4, Rules of Court. From the decision of the Justice of the Peace, the aggrieved party may appeal to the Court of First Instance whose decision shall be final on questions of facts.

Effectivity of this Circular.—

This circular shall take effect on January 1, 1960 and shall govern the conduct of the election of members of the barrio council on the second Sunday of January of 1960 and of every even-numbered year thereafter. Effective January 1, 1960, it shall supersede or repeal the unnumbered Provincial Circular of this Office issued on November 22, 1955, on the same subject matter.

ENRIQUE C. QUEMA
Assistant Executive Secretary

MEMORANDUM CIRCULAR NO. 12

October 16, 1959

REQUIRING THAT SWORN STATEMENTS OF ASSETS AND LIABILITIES WHICH CERTAIN OFFICIALS ARE DIRECTED UNDER ADMINISTRATIVE ORDER NO. 1, SERIES OF 1954, TO FILE WITH THE OFFICE OF THE PRESIDENT, BE SUBMITTED THROUGH THEIR DEPARTMENT SECRETARIES.

Under Administrative Order No. 1 dated January 5, 1954, all Secretaries and Undersecretaries of Departments, chiefs and assistant chiefs of bureaus and offices, heads of agencies and instrumentalities of the government, and directors, managers, or executive heads of all government-owned and controlled corporations are required to file annual sworn statements of their assets and liabilities directly to the Office of the President.

In order to insure that all such officials comply with this requirement every year, all department secretaries are hereby requested to see that such officials under their respective departments prepare and file, through their departments, the required statements of assets and liabilities within the period prescribed by Administrative Order No. 1 aforementioned. The statements shall then be forwarded in bunch to this Office together with a list of the officials filing them.

This Memorandum Circular shall take effect immediately and department secretaries are hereby requested to verify whether or not all officials concerned coming under their respective jurisdictions have duly submitted their statements of assets and liabilities for the current year, and to take steps to have those that have not yet submitted their statements, do so as soon as possible.

By authority of the President:

ENRIQUE C. QUEMA
Assistant Executive Secretary

Department of Justice

OFFICE OF THE SOLICITOR GENERAL

ADMINISTRATIVE ORDER NO. 149

September 21, 1959

APPOINTING LEGAL OFFICER AMADO A. ENRIQUEZ OF THE BUREAU OF PLANT INDUSTRY AS SPECIAL COUNSEL TO ASSIST ALL PROVINCIAL AND CITY FISCALS OR ATTORNEYS, EXCLUDING MANILA.

Upon recommendation of the Secretary of Agriculture and Natural Resources, in the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, as amended, Atty. Amado A. Enriquez, Legal Officer of the Bureau of Plant Industry, is hereby appointed as Special Counsel to assist all Provincial and City Fiscals or Attorneys, excluding the City Fiscal of Manila, in the investigation and prosecution of cases involving violation of the provisions of Republic Act No. 2084, subject to the control and supervision of the said Provincial and City Fiscals or Attorneys concerned, effective immediately and to continue until further orders.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER NO. 150

September 18, 1959

APPOINTING ATTY. MANUEL T. MURO, A PRIVATE PRACTITIONER, AS SPECIAL COUNSEL TO REPRESENT MAYOR GIL E. FERNANDO OF MARIKINA, RIZAL.

Upon the request of the municipal mayor of Marikina, Rizal, in the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, as amended, Atty. Manuel T. Muro, a private practitioner, is hereby appointed as special counsel to represent the municipal mayor, Mr. Gil E. Fernando of Marikina, in Civil Case No. 556, of the Court of First Instance of Rizal, entitled "The Municipal Mayor of Marikina, Rizal, petitioner, *versus* The Honorable Commissioner of Civil Service and the Municipal Council of Marikina, Rizal, respondents", for certiorari and prohibition, without compensation, effective immediately and to continue until further orders.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER NO. 151

September 23, 1959

APPOINTING FIRST ASSISTANT PROVINCIAL FISCAL FIDENCIO S. RAZ OF CAPIZ AS ACTING PROVINCIAL FISCAL OF SAID PROVINCE.

In the interest of the public service and pursuant to the provisions of section 1679 of the Revised Administrative Code, Mr. Fidencio S. Raz, First Assistant Provincial Fiscal of Capiz, is hereby appointed Acting Provincial Fiscal of Capiz, with compensation as provided by law for the said posi-

tion, pending the appointment of a permanent Provincial Fiscal, effective upon assumption of office and to continue until further orders.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER NO. 152

September 23, 1959

APPOINTING ASSISTANT PROVINCIAL FISCAL EDMUNDO M. RUADO OF ROMBLON AS ACTING PROVINCIAL FISCAL OF SAID PROVINCE.

In the interest of the public service and pursuant to the provisions of section 1679 of the Revised Administrative Code, Mr. Edmundo M. Ruado, Assistant Provincial Fiscal of Romblon, is hereby appointed Acting Provincial Fiscal of said province, with compensation as provided by law for the said position, pending the appointment of a permanent Provincial Fiscal, effective upon assumption of office and to continue until further orders.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER NO. 153

September 24, 1959

DESIGNATING SPECIAL ATTORNEY AGAPITO R. CONCHU AND ENRIQUE A. AGANA TO ASSIST THE PROVINCIAL AND CITY FISCALS OF CEBU AND CEBU CITY, RESPECTIVELY.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, as amended, Messrs. Agapito R. Conchu and Enrique A. Agana, Special Attorneys in the Prosecution, this Department, are hereby designated to assist the Provincial and City Fiscals of Cebu and Cebu City, respectively, in the investigation and prosecution of all offenses committed thereat, and Messrs. Conchu and Agana to be directly accountable to the Secretary of Justice and to the Chief Prosecuting Attorney, effective immediately and to continue until further orders.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER NO. 154

September 28, 1959

DESIGNATING SPECIAL ATTORNEY EVERARDO JAVIER OF THE DEPARTMENT OF JUSTICE TO ASSIST THE PROVINCIAL FISCAL OF ANTIQUE.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, as amended, Mr. Everardo Javier, Special Attorney in the Prosecution Division, this Department, is hereby designated to assist the Provincial Fiscal of Antique, in the investigation and prosecution of all cases, particularly anti-dummy cases and violations of Republic Act No. 145 in said province, subject to the control and supervision of the said Provincial Fiscal, effective immediately and to continue until further orders.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER NO. 155

September 28, 1959

DESIGNATING CHIEF PROSECUTING ATTORNEY BALDOMERO M. VILLAMOR TO ASSIST ALL PROVINCIAL AND CITY FISCALS OR ATTORNEYS IN THE PROSECUTION OF ALL CRIMES PUNISHABLE UNDER THE REVISED PENAL CODE.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, as amended by Republic Act No. 1277, Mr. Baldomero M. Villamor, Chief Prosecuting Attorney of the Prosecution Division, this Department, is hereby designated to assist all Provincial and City Fiscals or Attorneys in the investigation and prosecution of all crimes and/or offenses punishable under the Revised Penal Code and special laws, directly accountable to the Secretary of Justice, effective immediately and to continue until further orders.

This amends Administrative Order No. 105, series of 1958, of the Secretary of Justice.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER NO. 156

September 28, 1959

DESIGNATING SPECIAL ATTORNEY IRINEO V. BERNARDO TO ASSIST THE PROVINCIAL FISCAL OF BULACAN.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, as amended, Mr. Irineo V. Bernardo, Special Attorney in the Prosecution Division, this Department, is hereby designated to assist the Provincial Fiscal of Bulacan, in the investigation and prosecution of Victorio Alvarez and others in connection with the death of Capt. Hector Crisostomo, and Mr. Bernardo is accountable to the Secretary of Justice and to the Chief Prosecuting

Attorney, effective immediately and to continue until further orders.

ALEJO MABANAG
Secretary of Justice

ADMINISTRATIVE ORDER NO. 157

September 30, 1959

AUTHORIZING DISTRICT JUDGE FRANCISCO GERONIMO OF CAVITE TO HOLD COURT IN MANILA, SECOND BRANCH.

In the interest of the administration of justice and pursuant to the provisions of section 51 of Republic Act 296, as amended, the Honorable Francisco Geronimo, District Judge of Cavite, Second Branch, is hereby authorized to hold court in Manila, Second Branch, for a period of not more than three months beginning October 1, 1959, or as soon thereafter as practicable, for the purpose of trying all kinds of cases and to enter judgments therein.

ALEJO MABANAG
Secretary of Justice

DECISIONS OF THE SUPREME COURT

[No. L-10657. May 16, 1958]

NUMERIANO L. VALERIANO, ET AL., plaintiffs and appellants, *vs.* CONCEPCION KERR, ET AL., defendants and appellees

PLEADING AND PRACTICE; JUDGMENT; PETITION FOR RELIEF; LITIGATIONS CAN NOT BE MADE DEPENDENT UPON WILL OF THE PARTIES.—If a final order or judgment can be reopened every time a party alleges that he has not previously been aware thereof and that his attorney, on a mistaken notion or without authority, has failed to appeal, the end of litigations would be speculative, if not dependent upon the will of the parties.

APPEAL from an order of the Court of First Instance of Rizal (Quezon City). Yatco, *J.*

The facts are stated in the opinion of the Court.

Sevilla & Aquino for plaintiffs and appellants.
Filemón Q. Almazán for defendants and appellees.

PARÁS, *C. J.:*

This is an appeal from an order of the Court of First Instance of Rizal, denying plaintiffs' petition for relief from a previous order dismissing plaintiffs' complaint.

The plaintiffs claim that through accident, mistake or excusable negligence, they failed to appeal from the order of dismissal within the reglementary period.

There is no question that on December 12, 1955 attorneys for the plaintiffs received copy of the order dated November 29, 1955 dismissing the latter's complaint and that no appeal therefrom was interposed within thirty days. It is contended, however, that the plaintiffs had thought all along that their case was being prosecuted by their lawyers; that it was only on or about February 1, 1956 that they came to know of the dismissal and of the omission to appeal; that the plaintiffs never intended either to discontinue or abandon the suit or to agree to the dismissal; and that immediately after February 1, 1956 they took steps leading to the filing of their petition for relief.

The facts relied upon by the plaintiffs do not constitute a sufficient ground for setting aside the order of dismissal. They were represented by counsel, and notice to the latter was notice to the plaintiffs. If a final order or judgment can be reopened every time a party alleges that he has not previously been aware thereof and that his attorney, on a mistaken notion or without authority, has failed to appeal, the end of litigations would be speculative, if not dependent upon the will of the parties.

WHEREFORE, the appealed order is affirmed with costs against the plaintiffs. SO ORDERED.

Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Endencia, and *Félix, JJ.*, concur.

Order affirmed.

[N. L-9005. June 20, 1958]

ARSENIO DE LORIA and RICARDA DE LORIA, petitioners, *vs.* FELIPE APELAN FELIX, respondent

1. MARRIAGE IN "ARTICULO MORTIS"; LACK OF AFFIDAVIT AND NON-REGISTRATION OF MARRIAGE.—In the celebration of the marriage *in articulo mortis*, where all the requisites for its validity were present, the marriage is not voided by the failure of the priest to make and file the affidavit required in sections 20 and 21 of the Marriage Law and to register said marriage in the local civil registry.
2. ID.; FAILURE TO SIGN MARRIAGE CONTRACT; EFFECT OF.—The signing of the marriage contract is a formal requirement of evidentiary value, the omission of which does not render the marriage a nullity.

REVIEW by Certiorari of a decision of the Court of Appeals.

The facts are stated in the opinion of the Court.

Guido Advincula and *Nicanor Lápuz* for petitioners.
Nicodemus L. Dasig for respondent.

BENGZON, *J.:*

Review of a decision of the Court of Appeals, involving the central issue of the validity of the marriage *in articulo mortis* between Matea de la Cruz and Felipe Apelan Felix.

It appears that long before, and during the War of the Pacific, these two persons lived together as wife and husband at Cabrera Street, Pasay City. They acquired properties but had no children. In the early part of the liberation of Manila and surrounding territory, Matea became seriously ill. Knowing her critical condition, two young ladies of legal age dedicated to the service of God, named Carmen Ordiales and Judith Vizcarra [1] visited and persuaded her to go to confession. They fetched Father Gerardo Bautista, Catholic parish priest of Pasay. The latter, upon learning that the penitent had been living with Felipe Apelan Felix without benefit of marriage, asked both parties to ratify their union according to the rites of his Church. Both agreed. Whereupon the priest heard the confession of the bed-ridden old woman, gave her Holy Communion, administered the Sacrament of Extreme Unction and then solemnized her marriage with Felipe Apelan Felix *in articulo mortis* [2], Carmen Ordiales and Judith Vizcarra acting as sponsors or witnesses. It was then January 29 or 30, 1945.

After a few months, Matea recovered from her sickness; but death was not to be denied, and in January

[1] Now a nun at Sta. Escolastica College.

[2] In his presence, Matea and Felipe expressed mutual consent to be thence forward husband and wife.

1946, she was interred in Pasay, the same Fr. Bautista performing the burial ceremonies.

On May 12, 1952, Arsenio de Loria and Ricarda de Loria filed this complaint to compel defendant to render an accounting and to deliver the properties left by the deceased. They are grandchildren of Adriana de la Cruz, sister of Matea, and claim to be the only surviving forced heirs of the latter. Felipe Apelan Felix resisted the action, setting up his rights as widower. They obtained favorable judgment in the court of first instance, but on appeal the Court of Appeals reversed and dismissed the complaint.

Their request for review here was given due course principally to consider the legal question—which they amply discussed in their petition and printed brief—whether the events which took place in January 1945 constituted, in the eyes of the law, a valid and binding marriage.

According to the Court of Appeals:

"There is no doubt at all in the mind of this Court, that Fr. Gerardo Bautista, solemnized the marriage in articulo mortis of Defendant Apelan Felix and Matea de la Cruz, on January 29 and 30, 1945, under the circumstances set forth in the reverend's testimony in court. Fr. Bautista, a respectable old priest of Pasay City then, had no reason to side one or the other. * * * Notwithstanding this positive evidence on the celebration or performance of the marriage in question, Plaintiffs-Appellees contend that that the same was not in articulo mortis, because Matea de la Cruz was not then on the point of death. Fr. Bautista clearly testified, however, that her condition at the time was bad; she was bed-ridden; and according to his observation, she might die at any moment (Exhibit 1), so apprehensive was he about her condition that he decided in administering her the sacrament of extreme unction, after hearing her confession. * * *. The greatest objection of the Appellees and the trial court against the validity of the marriage under consideration, is the admitted fact that it was not registered."

The applicable legal provisions are contained in the Marriage Law of 1929 (Act No. 3613) as amended by Commonwealth Act No. 114 (Nov. 1936) specially sections 1, 3, 20 and 21.

There is no question about the officiating priest's authority to solemnize marriage. There is also no question that the parties had legal capacity to contract marriage, and that both declared before Fr. Bautista and Carmen Ordiales and Judith Vizcarra that "they took each other as husband and wife."

The appellants' contention of invalidity rests on these propositions:

(*a*) There was no "marriage contract" signed by the wedded couple, the witnesses and the priest, as required by section 3 of the Marriage Law; and

(*b*) The priest filed no affidavit, nor recorded the marriage with the local civil registry.

The factual basis of the first proposition—no signing—may seriously be doubted. The Court of Appeals made no finding thereon. Indeed if anything, its decision impliedly held such marriage contract to have been executed, since it said "the marriage in articulo mortis was a fact", and the only question at issue was whether "the failure of Fr. Bautista to send copies *of the certificate of marriage in question* to the local Civil Register and to register the said marriage in the Record of Marriages of the Pasay Catholic Church * * * renders the said marriage invalid." And such was the only issue rendered in the court of first instance. (See p. 14, 34, Record on Appeal.)

However, we may as well face this second issue: Does the failure to sign the "marriage certificate or contract" constitute a cause for nullity?

Marriage contract is the "instrument in triplicate" mentioned in sec. 3 of the Marriage Law which provides:

> "SEC. 3. Mutual Consent.—No particular form for the ceremony of marriage is required, but the parties with legal capacity to contract marriage must declare, in the presence of the person solemnizing the marriage and of two witnesses of legal age, that they take each other as husband and wife. *This declaration shall be set forth in an instrument in triplicate,* signed by signature or mark by the contracting parties and said two witnesses and attested by the person solemnizing the marriage. * * *." (Italics ours).

In the first place, the Marriage Law itself, in sections 28, 29 and 30 enumerates the causes for annulment of marriage. Failure to sign the marriage contract is not one of them.

In the second place, bearing in mind that the "essential requisites for marriage are the legal capacity of the contracting parties and their consent" (section 1), the latter being manifested by the declaration of "the parties" "in the presence of the person solemnizing the marriage and of two witnesses of legal age that they take each other as husband and wife"—which in this case actually occurred.[3] We think the signing of the marriage contract or certificate was required by the statute simply for the purpose of evidencing the act.[4] No statutory provision or court ruling has been cited making it an *essential* requisite—not the *formal* requirement of evidentiary value, which we believe it is. The fact of marriage is one thing; the proof by which it may be established is quite another.

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[3] p. 49 Record on Appeal.

[4] And to prevent fraud, as petitioners contend. p. 39 brief. See Corpuz Juris Secundum, Vol. 55 p. 899.

"Certificate and Record.—Statutes relating to the solemnization of marriages usually provide for the issuance of a certificate of marriage and for the registration or recording of marriages. * * * Generally speaking, the registration or recording of a marriage is not essential to its validity, the statute being addressed to the officials issuing the license, certifying the marriage, and making the proper return and registration or recording." (Sec. 27 American Jurisprudence "Marriage" p. 197–198.)

"Formal Requisites.— * * * The general rule, however, is that statutes which direct that a license must be issued and procured, that only certain persons shall perform the ceremony, that a certain number of witnesses shall be present, *that a certificate of the marriage shall be signed*, returned, and recorded, and that persons violating the conditions shall be guilty of a criminal offense, are addressed to persons in authority to secure publicity and to require a record to be made of the marriage contract. *Such statutes do not void* common-law marriages unless they do so expressly, *even where such marriages are entered into without obtaining a license* and are not recorded. *It is the purpose of these statutes* to discourage deception and seduction, prevent illicit intercourse under the guise of matrimony, and relieve from doubt the status of parties who live together as man and wife, *by providing competent evidence of the marriage.* * * *." (Section 15 American Jurisprudence "Marriage" pp. 1 8–189.) Italics Ours. (See also Corpus Juris Secundum "Marriage" Sec. 33.)

And our law says, "no marriage shall be declared invalid because of the absence of one or several formal requirements of this Act * * *." (Section 27.)

In the third place, the law, imposing on the priest the duty to furnish to the parties copies of such marriage certificate (section 16) and punishing him for its ommission (section 41) implies *his obligation to see* that such "certificate" is executed accordingly. Hence, it would not be fair to visit upon the wedded couple in the form of annulment, Father Bautista's omission, if any, which apparently had been caused by the prevailing disorder during the liberation of Manila and its environs.

Identical remarks apply to the priests's failure to make and file the affidavit required by sections 20 and 21. It was the priests obligation; non-compliance with it, should bring no serious consequences to the married pair, specially where as in this case, it was caused by the emergency.

"The mere fact that the parish priest who married the plaintiff's natural father and mother, while the latter was in articulo mortis, failed to send a copy of the marriage certificate to the municipal secretary, does not invalidate said marriage, since it does not appear that in the celebration thereof all requisites for its validity were not present, the forwarding of a copy of the marriage certificate not being one of the requisites." (Jones *vs.* Hortiguela, 64 Phil. 179.) See also Madridejo *vs.* De Leon, 55 Phil. 1.

The law permits *in articulo mortis* marriages, without marriage license; but it requires the priest to make the affidavit and file it. Such affidavit contains the data usually required for the issuance of a marriage license. The first *practically substitutes* the latter. Now then, if a marriage celebrated without the license is not voidable (under Act 3613),[5] this marriage should not also be voidable for lack of such affidavit.

In line with the policy to encourage the legalization of the union of men and women who have lived publicly in a state of concubinage[6], (section 22), we must hold this marriage to be valid.

The widower, needless to add, has better rights to the estate of the deceased than the plaintiffs who are the grandchildren of her sister Adriana. "In the absence of brothers or sisters and of nephews, children of the former, * * * the surviving spouse * * * shall succeed to the entire estate of the deceased." (Art. 952, Civil Code.)

WHEREFORE, the Court of Appeals' decision is affirmed, with costs. So ordered.

Parás, C. J., Montemayor, Reyes, A., Bautista Angelo, Concepción, Reyes, J. B. L., Endencia, and *Félix, JJ.*, concur.

Decision affirmed.

[5] Because it is a "formal requisite" (Section 7 as amended. See American Jurisprudence, supra. However, the New Civil Code seemingly rules otherwise. (Art. 80 (3)).

[6] Section 22 Act 3613; Article 76 New Civil Code.

[No. L-10859. 29 August 1958]

FLAVIANO BAUTISTA, petitioner, *vs.* The AUDITOR GENERAL of the Republic of the Philippines and The GENERAL MANAGER of the Government Service Insurance System, respondents.

1. RETIREMENT GRATUITY; COMPULSORY RETIREMENT; ANNUITY FOR FIRST FIVE YEARS NOT SUBJECT TO DISCOUNT.—Although petitioner was not yet 65 years when Republic Act No. 660 was approved on 16 June 1951, it is a fact, however, that he did reach the age of compulsory retirement before Republic Act No. 728 was enacted, and that at such time, Republic Act No. 660 merely provided for lump sum payment of the annuity for the first five years, without any mention whatsoever of discounts. When the retirement rights of petitioner became vested, therefore, he became entitled to a full payment of the first five years of his annuity, and the proviso inserted by Republic Act No. 728 (restricting no discount privileges) could not operate retroactively. Hence, the Government Service Insurance System had no right to subject the lump payment of the first five years of petitioner's gratuity to a discount of 5% compounded annually.

2. ID.; ID.; ID.; "PRESENT VALUE" OF LUMP SUM ANNUITY, CONSTRUED.—In the subsequent amendatory acts, Republic Act No. 1123, approved on 16 June 1954, and Republic Act No. 1573, approved on 16 June 1956, the proviso in Republic Act No. 728, restricting no discount privileges, has been stricken out, thereby removing whatever doubt there might have been in the intent and meaning of the term "present value" of the lump sum annuity for the first five years to which the petitioner is entitled. The striking out of such proviso only means that no such deduction may be made. Finally, Commonwealth Act No. 186, as amended by Republic Act No. 660, has been enacted for the benefit of the officer or employee and all doubts as to the intent of the law should be resolved in his favor.

REVIEW of a decision of the Auditor General.

The facts are stated in the opinion of the Court.

Bautista & Herrera for the petitioner.

Solicitor General Ambrosio Padilla and *Assistant Solicitor General Esmeraldo Umali* for the respondents.

PADILLA, *J.:*

This is a petition for review of a decision rendered by the Auditor General.

Flaviano Bautista was an Auditor in the General Auditing Office who was "automatically and compulsorily retired on June 16, 1952, at the age of 65 years, 5 months and 21 days with a creditable service of 46 years, 6 months and 2 days." He chose to receive a lump sum payment of the present value of his annuity for the first five years, as provided for in article II, section 11, paragraph (a), No. 3, of Commonwealth Act No. 186, as amended by Republic Act No. 660, the law in force at the

time he was retired. The Government Service Insurance System paid to the petitioner the sum of ₱14,853.61, based upon the following computation:

Amount of annuity, 1st 5 years	₱18,007.80
Less: Discount at 5% per annum, compounded annually	2,060.75
Present value of annuty, 1st 5 years	₱15,947.05
Present value of annuity, 1st 5 years	1,093.44
Net annuity paid	₱14,853.61

The petitioner objected to the deduction of the sum of ₱2,060.75 and requested that the same be paid to him, invoking the rule laid down in Espejo *vs.* Auditor General, 51 Off. Gaz. 2862. The System denied his request for the following reasons:

* * * In advancing to you your first 5 years annuity under the said Act which, otherwise, would have been paid to you monthly for 60 months, the System paid to you only the "present value" of said first 5 years annuity. This is pursuant to section 11(a), paragraph (3) of C. A. No. 186, as inserted by section 8 of R. A. No. 660, which was the law then in force on the date of your retirement, which reads:

> "(3) For those who are at least sixty-five years of age, *lump sum payment of present value of annuity for first five years and future annuity* to be paid monthly; or . . ." (Italics supplied.)

The term "present value" as used in the law has a technical meaning. It is that amount which, if invested now to earn a fixed rate of interest, will be equivalent to a specified amount due on a specific date in the future. In other words, to pay the present value of the annuity for first 5 years is synonymous to discounting said annuity. In computing the present value of annuity under C. A. No. 186, as amended, the System, pursuant to section 17(d) thereof, is authorized to charge interest at the rate of 5% per annum, compounded annually, as was done in your case.

With the enactment of R.A. No. 728, which was made effective on June 18, 1952, section 11(a), paragraph (3) above-quoted, was amended to read:

> "(3) For those who are at least sixty-five years of age, lump sum payment of present value of annuity for first five years and future annuity to be paid monthly: *Provided, however,* That there shall be no discount from the annuity for the first five years of those who are sixty-five years of age or over on the date of approval of Republic Act Numbered Six hundred sixty."

Even granting, therefore, for the sake of argument that this law has a retroactive effect, still you are not covered by the exemption thereunder as to be paid in lump sum the annuity for first 5 years without discount inasmuch as you did not attain the age of 65 years on June 16, 1951, the date of approval of R.A. No. 660, your date of birth being December 25, 1886. This provision was again further amended on June 16, 1954 by R.A. No. 1123, in which the law now stands as was originally enacted. (Annex C.)

He appealed to the Auditor General. The latter upheld the decision of the System. Hence this petition.

A similar question was passed upon by this Court in Espejo *vs.* Auditor General, *supra,* in lavor of the retired employee. This Court said—

> The last issue posed by petitioner-appellant is whether the Government Service Insurance System had the right to subject the lump payment of the first five years of his gratuity to a discount of 5 per cent compounded annually, amounting in this case to ₱1,436.18. The appellee Auditor General defends the action of the Insurance System by invoking Section 11(a) (3), Republic Act No. 728, amendatory to Commonwealth Act 186 and Republic Act No. 660, to the effect that employees retiring are entitled:
>
> > "(3) For those who are at least sixty-five years of age, lump sum payment of present value of annuity for first five years and future annuity to be paid monthly: *Provided, however,* That there shall be no discount from the annuity for the first five years of those who are sixty-five years of age or over on the date of approval of Republic Act Numbered Six Hundred sixty",
>
> and it is not denied that when Republic Act 660 was approved on June 16, 1951, petitioner Espejo was not yet 65 years old.
>
> It is a fact, however, that Espejo did reach the age of compulsory retirement before Republic Act 728 was enacted, and that at such time, Republic Act 660 merely provided for lump sum payment of the annuity for the first five years, without any mention whatsoever of discounts. When the retirement rights of petitioner became vested, therefore, he became entitled to a full payment of the first five years of his annuity, and the proviso inserted by Republic Act No. 728 (restricting no discount privileges) could not operate retroactively to the prejudice of the vested rights of petitioner herein. Hence, this appeal from the order imposing the discount should be sustained.

There is no cogent reason for abandoning the foregoing rule. Republic Act No. 660, which took effect on 16 June 1951, amending Commonwealth Act No. 186, the law in force at the time the petitioner was automatically and compulsorily retired on 16 June 1952, establishes a retirement system for officers and employees of the Government, "designed primarily to provide for old age and disability."[1] It sets the optional retirement age at 57 years provided the retiring officer or employee has rendered thirty years of service, and the automatic and compulsory retirement age at 65 years provided the retiring officer or employee has rendered fifteen years of service. To those who are automatically and compulsorily retired the law grants the choice of receiving a lump sum payment of the present value of their annuity for the first five years or an annuity to be paid monthly. The law grants this benefit only to those who are automatically and compulsorily retired, because one who reached that age is gen-

[1] Peralta *vs.* Auditor General, 43 Off. Gaz., 4454.

erally disabled and approaching the end of his natural life. If he is disabled or sick, he needs medical care and attention. Unlike an officer or employee who is a member of the System and retires at 57 years, he may no longer engage in another occupation to supplement his income that has been greatly reduced by his retirement, since the monthly annuity a retired officer or employee gets is much lower than the monthly salary he used to receive. It is during these remaining days that the law grants to a retired officer or employee a substantial sum which he may spend for his sustenance. To adopt the respondents' reasoning and allow the deduction made from the petitioner's lump sum annuity for the first five years would run counter to the spirit of the law.

Moreover, the term "present value" is used in its ordinary and not in its technical and restrictive sense. Furthermore, in the subsequent amendatory acts, Republic Act No. 1123, approved on 16 June 1954, and Republic Act No. 1573, approved on 16 June 1956, the proviso in Republic Act No. 728 relied upon by the respondents has been stricken out, thereby removing whatever doubt there might have been in the intent and meaning of the term "present value" of the lump sum annuity for the first five years to which the petitioner is entitled. The striking out of such proviso only means that no such deduction may be made. Finally, Commonwealth Act No. 186, as amended, has been enacted for the benefit of the officer or employee and all doubts as to the intent of the law should be resolved in his favor.

The decision of the Auditor General under review, sustaining that of the General Manager of the Government Service Insurance System, is reversed, and the latter ordered to pay to the petitioner the sum of ₱2,060.75, without pronouncement as to costs.

Parás, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Concepción, Reyes, J. B. L., Endencia, and *Félix, JJ.,* concur.

Decision reversed.

[No. L-10951. October 23, 1958]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* GREGORIO RAMIREZ, defendant and appellant

1. CRIMINAL LAW; MURDER; EVIDENCE; SELF-DEFENSE; CASE AT BAR.—In pleading self-defense, appellant testified that he was assaulted first by J.E., and later joined by M. and the deceased who grabbed him by the wrist from behind; that when J.E. tried to hit him again, he drew his dagger and plunged it on J.E., and then swung said dagger from right to left, hitting the deceased who was still holding him by the waist, thus disposing of his opponents and freeing himself. Thereafter, J.E. left, the deceased released him from the hold, and M. just disappeared. *Held:* Aside from the incredible nature of appellant's version, it is hard to believe that the deceased, who was physically inferior and defective, would dare enmesh himself in a scuffle and risk his life by embracing an opponent on the waist from behind but whose arms were left free to retaliate. And it is even more preposterous to suppose that the deceased was behind appellant at the time he was wounded, for it was physically impossible that the dagger could have landed precisely on the back of the deceased, left side, with an inward and downward direction, causing a penetrating wound 4½ inches deep. No matter in what conceivable manner the dagger thrust might have been delivered, the same could not have produced the kind and character of the wound inflicted upon the deceased, and on the precise spot it landed, under the circumstances and relative positions of deceased and appellant as described by the latter and his witnesses.
2. ID.; ID.; ID.; MOTIVE; PROOF OF, WHEN NOT REQUIRED.—The question of motive is very important in cases where there is doubt as to whether the defendant is or is not the person who committed the act. But where, as in the case at bar, the defendant himself admitted that he was the one who stabbed the deceased, there was no need for the prosecution to inquire into his motive.

APPEAL from a judgment of the Court of First Instance of Oriental Mindoro. Ramos, *J.*

The facts are stated in the opinion of the Court.

Acting Solicitor Guillermo E. Torres and *Solicitor Pacífico P. de Castro* for the plaintiff and appellee.

Porfirio V. Villarromán and *Vedasto B. Gesmundo & Froilan Tafalla* for defendant and appellant.

ENDENCIA, *J.:*

This is an appeal from the decision of the Court of First Instance of Mindoro sentencing appellant Gregorio Ramirez to life imprisonment for the crime of murder, and to pay ₱6,000 indemnity to the heirs of the deceased.

The facts as established by the prosecution, are as follows: On the evening of April 29, 1955, at about half past eight, a religious organization known as "Iglesia ni Cristo" was having a religious service in the población of San Teodoro, Oriental Mindoro, open to the public.

Among the spectators was the deceased Crisanto Manalo who was listening with folded arms to the Minister preaching a sermon on a platform about thirty meters away. Mariano Canovas, who was also at the gathering and was about five meters from Manalo, saw appellant Gregorio Ramirez walk in front of Manalo, then situate himself behind the latter's left side, and, without any ado, suddenly stab Manalo on the back with a double-edged dagger nine inches long (Exhibit B). Manalo staggered on his left and fell. Just before the assault, José Evangelista, another spectator, who was about two meters away from Manalo, upon noticing that appellant was about to stab the deceased, exclaimed: "Goring, don't hurt him because he has no fighting chance," but before he could finish uttering these words, appellant had already plunged the dagger on Manalo's back.

The deceased was a short fellow, with short and paralized arms (sinkol), short and paralized fingers that could not grasp anything as they could not be folded to reach the palms of his hands, with scars around the neck, and with small narrow eyes (sinkit), and this evidently explains why Evangelista said that the deceased had no fighting chance. When Evangelista approached appellant with the intention of separating him from Manalo and prevent further harm, appellant stabbed Evangelista twice on the chest, inflicting two wounds thereby, whereupon Evangelista ran away, chased by appellant. For these two stab wounds Evangelista was hospitalized for nine days.

Immediately after the incident and before Manalo was brought to the provincial hospital of Calapan, his statement (Exhibit E) was right away taken down by the chief of police because, Dr. Sulit, one of the witnesses to the affixing of declarant's thumb mark, urged the chief of police to rush it as Manalo might die at any moment, as he in fact died early the following morning at the provincial hospital where he was taken to posthaste. After his death, Dr. Manuel R. Luna of the hospital performed the corresponding autopsy and found that the deceased sustained a profound stab would 2½ inches long and 4½ inches deep, running inward and downward, located at the infra-scapular region, back, a little below the level of the left nipple, perforating and lacerating the left diaphragm, lower left lung, stomach and intestines (Exhibits A and D).

Appellant admits having inflicted the stab wound which caused the death of the deceased, but pleads self-defense. He testified that while the Minister was delivering the sermon, two suffocating smokes were noticed, one from a burning piece of cotton under the platform where the

Minister was preaching, which appellant put out, and another, some fifteen minutes later, in the midst of the assemblage, which caused the people nearby to cough and shy away; that being a member of the Iglesia ni Cristo, he went around to look for the person or persons responsible therefor; that while thus walking around, José Evangelista approached and asked him what he was looking for, and without waiting for his answer, Evangelista continued, "So you're looking for the man who caused the smoke; it was I," and at the same time Evangelista grabbed him by the breast and boxed him, the blow landing on his left face; that soon after, another man who from information he later found to be one Manikis, gave him a fist blow on the nape which felled him, face down, and when he intended to get up, Manikis again hit him on the leg, thereupon the deceased grabbed him by the waist; that he stood up facing Evangelista, with the deceased at his back still holding him by the waist, and then Evangelista again tried to grab him by the collar to hit him, hence he drew his dagger and plunged it on Evangelista twice in succession, *and then swung said dagger from right to left, hitting the deceased who was still holding him by the waist from behind,* thus disposing of his opponents and freeing himself. Appellant further stated that Evangelista left, the deceased released him from the hold, and Manikis just disappeared. To corroborate him, appellant offered the testimony of Elpidio Matanguihan and Dante Gutierrez, his co-members in the Iglesia ni Cristo.

Although we here have two conflicting versions on how the incident started and developed, they however agree on this point: that the deceased Crisanto Manalo was stabbed by appellant with a dagger, causing his death. Likewise it stands without conflict that on the night in question while the Minister was preaching, two annoying smokes were noticed, which set appellant to walk around, armed with a dagger, to look for the man who caused them.

Upon careful consideration of these undisputed facts as well as of the conflicting versions on the case, we are with the trial judge, who saw and heard the witnesses, in not giving credence to the testimony of appellant and his witnesses. Aside from the incredible nature of appellant's version, his two witnesses, who in turn contradicted each other, contradict him in many respect. While he assures the court that he was knocked down only once, that is to say, upon being hit on the nape by a certain Manikis, his witness Elpidio Matanguihan states that appellant fell twice: first when hit by Evangelista on the face, and then again when hit by Manikis on the nape. Dante Gutierrez's version, on the other hand, is

very much different. He said that appellant, after receiving the blow from Evangelista, did not fall but just turned his body, and that at this moment Manikis boxed appellant on the nape which felled the latter, and when appellant stood up and attempted to run, his leg was "balked" or tipped by Manikis, by reason of which appellant again fell, and when appellant again attempted to stand up, he was embraced on the waist from behind by the deceased. These three different and conflicting versions on a single matter of fact, confusing and contradictory as they are, should be disregarded for their dubious nature.

Again, while appellant said that he delivered thrusts with his dagger twice in succession on Evangelista, Elpidio Matanguihan, contradicting him, stated that appellant just swang the dagger from left to right hitting Evangelista in front, and then from right to left hitting the deceased behind. On the other hand, Dante Gutierrez testifying on this point stated positively that Evangelista parried the blow of appellant, so that *the latter had to push the blade on Evangelista* and *then directed the dagger on the deceased* who was behind.

Furthermore, while appellant and Elpidio Matanguihan state that the deceased *grabbed* appellant's waist from behind, Gutierrez states on the other hand that the deceased *embraced* appellant on the waist from behind, both facing the same direction, and graphically showing it to the trial court. Either version could not have been possible, as it was conclusively shown that the deceased had short and paralized fingers that could not grasp anything, and his arms could not have encircled around appellant's waist as they were short and paralized (sinkol). Moreover, it is hard to believe that the deceased, who was physically inferior and defective, would dare enmesh himself in a scuffle and risk his life by embracing an opponent on the waist from behind but whose arms were left free to retaliate. And it is even more preposterous to suppose that the deceased was behind appellant at the time he was wounded, for it was physically impossible that the dagger could have landed precisely on the back of the deceased, left side, with an inward and downward direction, causing a penetrating wound 4½ inches deep. No matter in what conceivable manner the dagger thrust might have been delivered, the same could not have produced the kind and character of the wound inflicted upon the deceased, and on the precise spot it landed, under the circumstances and relative positions of deceased and appellant as described by the latter and his witnesses.

Appellant in his brief stresses the fact that, by reason of the failure of the prosecution to prove any motive, thus

affecting the credibility of its witnesses, he is entitled to an acquittal, considering, besides, that he merely acted in self-defense.

"The question of motive is very important in cases where there is doubt as to whether the defendant is or is not the person who committed the act, but when there is no doubt, as in the case at bar, that the defendant was the one who caused the death of the deceased, it is not so important to know the exact reason for the deed. (U.S. *vs.* McMann, 4 Phil., 561; People *vs.* Ragsac, 61 Phil., 146; People *vs.* Tastatas, 65 Phil., 543; People *vs.* Tagasa, 68 Phil., 1947).2[1]

There being an admission by appellant himself that he was the one who stabbed the deceased, there was no need for the prosecution to inquire into his motive. On the other hand, while it is true that the prosecution failed to prove any motive, the record reveals that the defense itself has supplied it. It established that there were two suffocating smokes noticed during the progress of the religious service, which made appellant to go around. Certainly, the causing of these smokes, presumably by non-members, which disturbed and interrupted the service, particularly at the time when the Minister was preaching, is enough motive for any member of the sect to be offended thereby, particularly appellant who has shown to be a member of some importance. Armed with a deadly dagger before coming to the meeting as if expecting trouble during the service from antagonistic elements, appellant has imposed upon himself the duty to look for the person or persons responsible for the annoying smokes, and it was not strange for him to pick on the deceased, a non-member, as one of the authors of the nuisance.

In view of the above findings and considerations, we find it hard to believe in the self-defense invoked by appellant. He himself admits that he and Evangelista were friends and never had any misunderstanding of any kind prior to the incident. If this is so, then there was absolutely no reason why Evangelista, a non-member, should provoke and attack appellant in a meeting precisely organized and conducted by the followers of the Iglesia ni Cristo of which appellant is a member in good standing. Unarmed as he was, it would have been foolhardy for said Evangelista to adopt an aggressive attitude and thus invite the risk of being manhandled by the Iglesia ni Cristo followers. And were it true that appellant was assaulted by Evangelista and Manikis prior to the stabbing of the deceased, his natural and logical reaction would have been to seek redress by filing the corresponding complaint against the two. He admits however that he has not done so, but that instead he was

[1] People *vs.* Filemon Caggawan, et al., 50 Off. Gaz. No. 1, p. 124.

accused by Evangelista of physical injuries. Moreover, Evangelista, in rebuttal, not only denied having a tussle with appellant before the stabbing of the deceased, but positively stated that he was alone in approaching appellant, and that he does not know of any person who responds to the name of Manikis. And lastly, the deceased himself in his statement Exhibit E which may be considered as part of the *res gestae* for it does not meet all the requirements of a dying declaration, asseverates that he was stabbed all of a sudden from behind, without a word being said.

The decision appealed from being in accordance with the facts and the law, the same is hereby affirmed, with costs.

Parás, C. J., Bengzon, Padilla, Montemayor, Baustista Angelo, Labrador, Concepción, and *Reyes, J. B. L., JJ.,* concur.

Judgment affirmed.

DECISIONS OF THE COURT OF APPEALS

[No. 17564–R. April 16, 1958]

ARSENIO SALVADOR, plaintiff and appellee, *vs.* MARIANO ANG and TAN AY GIN, defendants and appellants

1. CRIMINAL LAW; MALICIOUS PROSECUTION; EVIDENCE; ACQUITTAL NOT A PRIMA FACIE EVIDENCE OF WANT OF PROBABLE CAUSE.—It has been held that "it is not sufficient to sustain a complaint of false accusation to show simply that the proof was not sufficient to convict the accused" for such a rule would subject every complainant to the possibility of complaint for false accusation. (U. S. *vs.* Del Campo, 27 Phil., 67–71). Failure to convict does not necessarily show a lack of probable cause for the prosecution. Precisely because an accused may be acquitted on reasonable doubt which is not inconsistent with probable cause. The weight of authority and reason is that the mere fact of acquittal is not *prima facie* evidence of want of probable cause. (34 Am. Jur. 740).
2. ID.; ID.; ELEMENTS.—To make a case of malicious prosecution there must be malice and there must be an absence of probable cause (U. S. *vs.* Dubal, 37 Phil., 577; Buchanan *vs.* Viuda de Esteban, 32 Phil., 363).
3. ID.; ID.; IMPOSITION ON RIGHT TO LITIGATE, AGAINST PUBLIC POLICY.—It is against public policy to impose on the right to litigate considering that in most cases one party is bound to lose (Barreto *vs.* Arevalo, G. R. No. L–7748, August 27, 1956). The action for malicious prosecution is not favored in law; and that the disfavor is especially marked in cases where the suit is being brought for the institution of criminal proceedings against the plaintiff, since public policy favors the exposure of crime, which a recovery against a prosecutor obviously tends to discourage (34 Am. Jur. 705–706).

APPEAL from a judgment of the Court of First Instance of Rizal. Yatco, *J.*

The facts are stated in the opinion of the Court.

Vivencio C. Austero, for defendants and appellants.
Jose C. de Guzman, for plaintiff and appellee.

GUTIERREZ DAVID, *Pres. J.:*

This appeal is from a judgment of the Court of First Instance of Rizal (Branch V, Quezon City) finding for the plaintiff-appellee Arsenio Salvador in an action for damages based on malicious prosecution and ordering the spouses Mariano Ang and Tan Ay Gin, defendants-appellants, to pay to the former ₱10,000, as moral damages; ₱4,000, as exemplary damages; ₱200, as actual damages; and ₱1,000, as attorney's fees plus costs.

The evidence for the complaint may be summarized as follows:

Appellee Arsenio Salvador testified that appellants were his employers since March, 1949 up to September 2, 1954; that he tried to collect overtime pay but said appellants got angry at him, gave him one month salary and dismissed him from service; that since appellants did not pay him overtime, he filed a claim with the Bureau of Labor; that appellants went to his house and suggested the settlement of the case for overtime pay; that because he insisted in collecting said overtime pay, appellants got mad and said that they would not spend ₱10,000 in filing charges against him to put him in prison; that charges were filed against him for theft of a toilet bowl; that he was surprised and humiliated because he really did not do what was imputed to him; that the case for theft was dismissed as shown in the decision, marked as Exhibit A, rendered in Criminal Case No. 9714 of the Municipal Court of Quezon City; that in connection with said theft case he spent more than ₱1,000.00 for attorney's fees, transportation and other matters; he paid ₱500.00 already to his lawyer; and paid 5 per cent of the ₱500.00, the amount of his bail bond; that as a result of the criminal case for theft he felt humiliated and did not sleep; and that for the instant case he spent ₱30.00 for the filing of the action and paid ₱400.00 of the ₱500.00 promised to his lawyer. Upon inquiry by the court, appellee admitted having been convicted for the crime of threats previous to the filing of the theft case against him and that appellants also filed charges against him for falsification after the filing of the present case which charge is being investigated by the Office of the City Fiscal of Manila. On cross-examination, he admitted having signed a receipt for the amount received by him from the appellant as advanced one month salary. Appellee presented in evidence the copy of the sentence (Exh. A) rendered in the criminal case No. 9714, for theft, against him.

For the defense, appellant Mariano Ang testified. He averred that the services of appellee were terminated in 1954 because the latter refused to render services during Sundays and holidays in violation of their agreement on the matter; that, after his dismissal, appellee filed a case against him for overtime pay before the Bureau of Labor; that appellants went to the house of appellee and tried to convince him to return to their service and when they went back, appellant Mariano Ang saw in the premises of appellee the toilet bowl which appellants had lost probably in 1954 and asked appellee why he had that bowl which belonged to them, appellants; that he then asked the aid of the Manila Police Department with whose help appellants were able to recover the bowl.

After the judgment in the court below was rendered appellants filed therein a motion for new trial on the ground of: (1) mistake or excusable negligence which ordinary imprudence could not have guarded against and by reason of which appellants have been impaired in their rights; and (2) that the evidence was insufficient to justify the decision, and the same is against the law. It is argued in the motion that the appellants were deprived of their right to present evidence to contradict the evidence presented by the appellee and were made to believe by the trial judge that the question before the court was purely one of law and that the defense will be purely a question of law. This motion was denied for lack of merits.

Appellants contend that the court below committed errors: (1) in not dismissing the complaint; (2) in not admitting Exhibit 1, in suppressing the right to cross-examination, in arbitrarily interfering in the examination of the witnesses and in declaring that the only issue is one purely of law; (3) in awarding damages without proof; and (4) in not granting their motion for new trial.

To our mind the main question to be determined here—and will dispose of the case—is whether there is sufficient evidence showing the alleged malicious prosecution for the filing of the charges of theft against the appellee.

The findings of the court below are as follows: that defendants dismissed plaintiff in retaliation to his claim for overtime pay, after giving him one month pay; that the dismissal was an unjustified dismissal; that when defendants could not settle the matter they got mad and threatened to file charges for which they were willing to spend ₱10,000.00; that in fulfillment of the threat, defendants filed charges for theft of a useless broken toilet bowl, which was dismissed by a competent court; that after plaintiff was acquitted, defendants filed charges for falsification now pending investigation; that on account of the action for theft, Arsenio Salvador felt humiliated and ashamed and suffered damages and incurred expenses in attorney's fees. The court a quo further observed that defendants "offered but a meager defense of a legal question that inasmuch as the action was filed by a Special Prosecutor, they should not answer for any liability." From the sentence of the municipal court in the case of theft, the court a quo concluded that "it is evident that the action for theft was not made for a good purpose" and was "motivated" by the claim for overtime pay. The Court a quo also placed importance on the municipal court's finding as to the physical state of the toilet bowl.

Obviously the trial court took as the truth everything that the appellee testified. It went further to say that

appellee's statements are uncontradicted. This is wrong. Appellee testified that when he tried to collect his overtime pay appellants got angry and dismissed him; that he filed a claim for overtime pay and appellants attempted to settle it but got mad and threatened him with a case when he refused to settle; that appellants filed charges for theft and that appellee was acquitted therefrom. The attempted implication from this testimony is that the theft case was filed in retaliation to the claim for overtime pay. But appellant Ang, in turn, testified that when he and his wife went to appellee's house to settle the matter they saw the toilet bowl which they owned placed under the house of the latter, so Ang sought the aid of the Manila Police Department through whose efforts appellants were able to recover said bowl. Surely this testimony of appellant Ang is a direct contradiction of appellee's theory. So the finding of the trial court that appellee's declarations represent uncontradicted facts is clearly an error.

From the events and circumstances narrated by appellee, the trial court inferred that appellee's dismissal from service was a retaliation to his claim for overtime pay; that said dismissal is unjustified; and that the theft case was filed in fulfillment of appellant's threat. These inferences are unjustified and unwarranted. Appellee's dismissal could have been due to other causes, and as testified to by Ang it was due to appellee's refusal to work on Sundays and holidays when his services were most needed albeit such was their agreement. There is no convincing proof that appellee's claim for overtime pay is meritorious. There is no showing that his dismissal was due to a desire to avenge the filing of a just and valid claim for overtime pay. Appellee's statement that appellants got angry may be due to the fact that appellee was claiming for something he did not deserve in the opinion of the appellants. Even assuming the truth about the threat, it is a long way to making the serious statement that the criminal charge for theft was filed in fufillment of that threat.

The trial court made much of the sentence (Exh. A) of the Municipal Court acquitting appellee of the theft charge. It laid much emphasis on the finding therein that the bowl was broken, useless and valueless and on the other finding to the effect that the criminal case "was motivated by the complaint filed by the accused against the Ang family." We feel that these findings are not sufficient to prove that the charge for theft was absolutely and knowingly false and malicious. The bowl could have been in good order when it was lost and was broken only thereafter. It could have been in good condition at the begin-

ning of the trial but was broken afterwards. Whatever it might have been, it certainly does not appear from the sentence (Exh. A) that the bowl was broken, useless and valueless from beginning to end. It may be observed that during the trial of the criminal case appellee attempted to show that the bowl had been given to him by the Angs and this fact goes to indicate that the bowl was not useless and valueless at the time. Granting that the criminal case was motivated by the claim for overtime pay filed by the appellee, still it cannot be necessarily implied therefrom that there was malice in the motive. It may be possible that appellee's claim was without merit and that appellants sincerely believed in appellee's guilt and desired to make an example of him. It cannot be said that the Municipal Court was entirely correct in its findings. Said court is not of record. Besides, its finidngs of facts cannot be considered as strictly binding upon the appellants because, the judgment being for acquittal, appellants are powerless to contest it no matter how baseless and erroneous its findings might have been. The findings aforesaid are just one factor which should be reckoned in the resolution of the instant case. As may be clearly gleaned from its decision, the Municipal Court utilized the aforementioned findings merely to reach the conclusion of doubt as to the culpability of the accused. Thus, it finally declared that the "prosecution failed to establish the guilt of the accused beyond reasonable doubt and for which reason the court acquits Arsenio Salvador from the crime charged."

From such finding we cannot conclude that there was malicious prosecution. The Municipal Court did not say that there was absolutely no truth to the criminal charge nor that there was no evidence to support it nor that the evidence adduced to establish it is false and perjured. In the case at bar, there is no clear evidence to that effect. The Municipal Court merely meant that it entertained doubts as to the guilt of the accused. Nothing can be added to that. It has been held that "it is not sufficient to sustain a complaint of false accusation to show simply that the proof was not sufficient to convict the accused" for such a rule would subject every complainant to the possibility of a complaint for false accusation. (U. S. *vs.* Del Campo 27, Phil. 67–71). Failure to convict does not necessarily show a lack of probable cause for the prosecution. Precisely because an accused may be acquitted on reasonable doubt which is not inconsistent with probable cause. The weight of authority and reason is that the mere fact of acquittal is not *prima facie* evidence of want of probable cause. (34 A. J., 740)

To make a case of malicious prosecution there must be malice and there must be an absence of probable cause (U. S. *vs.* Dubal, 37 Phil. 577, Buchanan *vs.* Viuda de Esteban, 32 Phil. 363). In the instant case there is no sufficient proof of malice and there is even less proof of want of probable cause. As correctly observed by the appellants, no less than three government officers and entities passed upon the *prima facie* merits of the criminal charge for theft. The police and the prosecutor acted favorably to the charge and the Municipal Court made no finding of malice and want of probable cause. It may be presumed that official duty has been regularly performed (Sec. 69 (*m*), Rule 123, Rules of Court).

It is against public policy to impose on the right to litigate considering that in most cases one party is bound to lose. (Barretto *vs.* Arevalo, G. R. No. L–7748, August 27, 1956). The action for malicious prosecution is not favored in law; and that the disfavor is especially marked in cases where the suit is being brought for the institution of criminal proceedings against the plaintiff, since public policy favors the exposure of crime, which a recovery against a prosecutor obviously tends to discourage (34 Am. Jur. 705–706).

In view of all the foregoing, it is our considered opinion that this case for damages predicated on malicious prosecution has not been satisfactorily proved and the award of damages in the appealed judgment are devoid of factual and legal bases.

Having arrived at the foregoing conclusions, we believe it would be purposeless to discuss and pass upon the other assignments of error.

WHEREFORE, the appealed judgment is reversed against the appellee in both instances.

Martinez and *Hernandez, JJ.*, concur.

Judgment reversed.

[21897-R. March 5, 1959]

IN THE MATTER OF THE INTESTATE ESTATE OF JESUS PAJARILLO. ANTONIO DE LOS SANTOS, movant and appellant, *vs.* FLORENCIA J. PAJARILLO, administratrix and appellee.

SUCCESSION; ILLEGITIMATE CHILDREN; RECOGNITION NOT A PREREQUISITE TO DECLARATION OF AN ILLEGITIMATE CHILD AS HEIR.—Article 887 of the New Civil Code, speaking of illegitimate children as compulsory heirs, require nothing else other than that they prove their filiation, which, obviously does not mean that they must first be recognized by their putative parents.

APPEAL from a resolution of the Court of First Instance of Manila. Cañizares, *J.*

The facts are stated in the opinion of the Court.

Gerardo P. Cabo Chan, for movant and appellant.
Apolonio A. Amancio, for administratrix and appellee.

DIZON, *J.:*

This is an appeal from the resolution of the lower court denying a petition filed by appellant in Special Proceedings No. 28800 of said court entitled "Intestate Estate of Jesus Pajarillo", praying that an order be issued declaring him to be an heir of said decedent.

It appears that Jesus Pajarillo died intestate in Manila on January 16, 1956. On the 30th of the same month and year his widow, Florencia J. Pajarillo, filed the corresponding petition for the issuance to her of letters of administration. On March 12 of the same year appellant Antonio de los Santos filed a petition in said proceedings alleging that he was an illegitimate son of the deceased Jesus Pajarillo and praying that he "be included as one of the heirs of the said deceased in accordance with law." After proper proceedings the lower court rendered the resolution appealed from denying the motion on the ground that in accordance with Article 285 of the New Civil Code appellant could bring an action for recognition as natural child only during the lifetime of his parents. Appellant now contends that said resolution should be reversed, the lower court, in issuing the same, having committed the following errors:

"1. The lower court erred in ruling that the law applicable is Article 285.

2. The lower court erred in not applying the provisions of Articles 287 and 887 of the Civil Code.

3. The lower court erred in failing to declare the appellant Antonio de los Santos is an heir of the deceased Jesus Pajarillo in spite clear and convincing evidence.

4. The lower court erred in denying the petition of the appellant."

The record discloses that on April 24, 1956, appellant submitted a written request for admission of the fact that he was the son of Jesus Pajarillo with Leonila de los Santos. The written request was received by the administratrix, Florencia J. Pajarillo, and her counsel. No answer thereto having been given by said administratrix within the period fixed by law, the matter of which the admission was requested must be deemed to have been admitted (Section 2, Rule 23, Rules of Court).

Upon the other hand, the testimony of appellant himself, corroborated by that of Dr. Buenaventura Silva, Saturnino Castillo, Alejandro de los Santos, Gregorio Pajarillo and Gerardo de los Santos, is clearly sufficient to show that appellant was the son of Leonila de los Santos, single, and of the now deceased Jesus Pajarillo, and that at the time of his conception and birth, his father (Pajarillo) was married to the present administratrix of his estate.

Upon the above facts we are of the opinion and so hold that the lower court erred in issuing the appealed resolution. The petition filed by appellant was not the equivalent of an action for recognition of a natural child nor was it claimed therein that appellant was a natural child of Jesus Pajarillo. The petition was for a declaration or investigation of appellant's paternity and for his declaration as *illegitimate* child of Jesus Pajarillo. In Zuzuarregui et al. *vs.* Zuzuarregui et al., G. R. L–10010 it was held that in order that an illegitimate child may enjoy successional rights he need not first bring an action for recognition during the lifetime of his putative father as required by Article 285 of the New Civil Code—which refers to natural children; that there is no provision in the law requiring that an illegitimate child should first be recognized as such before he can be accorded successional rights, and that recognition refers only to natural children—which is not the case of appellant who precisely claims to be an illegitimate child born of a woman, single, and a man, married at the time both of his conception and birth.

On the other hand, Article 887 of the New Civil Code, speaking of illegitimate children as compulsory heirs, require nothing else other than that they prove their filiation, which, obviously does not mean that they must first be recognized by their putative parents. As already stated heretofore, the evidence of record clearly shows that appellant is an illegitimate child, other than natural, of the deceased Jesus Pajarillo. Consequently, in accordance with Article 887 of the New Civil Code, he is one of his compulsory heirs.

WHEREFORE, the appealed resolution is hereby reversed and appellant is declared to be an illegitimate child of the deceased Jesus Pajarillo and as such one of his compulsory heirs in accordance with Article 887 of the New Civil Code.

Without special pronouncement as to costs.

SO ORDERED.

Peña and *Cabahug, JJ.*, concur.

Resolution reversed.

[No. 20806-R. March 13, 1959]

MUNICIPALITY OF NAIC, plaintiff and appellant, *vs.* SIXTO POBLETE, ET AL., defendants and appellees

EMINENT DOMAIN; EXPROPRIATION; SELECTION BY GRANTEE OF POWER NOT INTERFERED WITH BY COURTS.—The plaintiff in an expropriation proceeding has the power to choose the location of the intended public project or improvement. Many circumstances come into play in the determination of the ideal and most preferred site, and the entity or corporation needing it usually is the best judge of those circumstances. Once made, the courts generally do not disturb the selection, provided, however, that the selection is made in good faith and is not capricious or wantonly injurious, or in some respects beyond the privilege conferred by the charter or statute. (29 C. J. S. pp. 886-887)

APPEAL from a judgment of the Court of First Instance of Cavite. Dollete, *J.*

The facts are stated in the opinion of the Court.

Assistant Provincial Fiscal Jose M. Legaspi, for plaintiff and appellant.

Saturno D. Ramirez, for defendants and appellees.

DE LEON, *J.:*

This is an appeal from a decision of the Court of First Instance of Cavite, dismissing the complaint for expropriation proceedings and ordering the plaintiff Municipality of Naic, Cavite, to remove the school building from the land of the defendants at its own expense, to restore the land to its original condition, and to pay the defendants the sum of ₱1,550.00, with legal interest from October 6, 1955, by way of damages, as well as the costs of the proceeding.

The land of the defendants-appellees sought to be acquired by the Municipality of Naic as a barrio school site is located in Malainen Bago, Naic, with an area of 2,500 square meters. The condemnation is based on Resolution No. 35 of the Municipal Council of Naic (Exhibit 2), allegedly approved by the Provincial Board of Cavite and the Office of the President of the Philippines. On October 6, 1955, the trial court authorized the Municipality to take over the property upon deposit of the sum of ₱1,460.00, in accordance with Section 3, Rule 69, Rules of Court. The defendants opposed the expropriation on the ground that their land is not centrally located and not an ideal site for school purposes; that there are other lands in the vicinity more centrally located and better suited for school purposes; that the land in question is the only land of the defendants and makes two harvests a year, while the adjoining lands more ideal for the purposes of the expropriation are less productive and belong to rich or well-to-do families; that the de-

fendants were never informed or consulted of the proposed expropriation of their land; and, that the expropriation was inspired by a personal enmity between Blas Poblete, on one hand, and defendants Sixto and Rosalina Poblete, on the other, generated by the son-in-law of Blas, Councilor Felipe Pilpil, who sponsored the resolution (Exhibit 2) and assured the other members of the local Council that the land in question is centrally located and very ideal for the proposed barrio school and that its owners had signified their willingness to have the school building built on their land.

There is hardly any doubt as to the power of the plaintiff to choose the location of the intended public project or improvement. Many circumstances come into play in the determination of the ideal and most preferred site, and the entity or corporation needing it usually is the best judge of those circumstances. Once made, the courts generally do not disturb the selection:

"Under a delegation of the power of eminent domain, the grantee of the power, in the absence of legislative restriction, may determine the location and route of the improvement and of the land to be taken for it, and such determination will not be interfered with by the courts if it is made in good faith and is not capricious or wantonly injurious, or in some respects beyond the privilege conferred by the charter or statute. The landowner cannot raise the objection that there is no necessity for condemning his property because some other location might be made, or some other property obtained which would be more suitable." (29 C. J. S. pp. 886–887).

The above-quoted authority, however, provides a condition, that is, that the selection "is made in good faith and is not capricious or wantonly injurious, or in some respects beyond the privilege conferred by the charter or statute." The above rule and its exception holds true in this jurisdiction:

"A large discretion is necessarily vested in those who are vested with the power, in determining what property and how much is necessary. To warrant a denial of the application, it should appear that what is sought is clearly an abuse of power on the part of the petitioner. 'It may be said to be a general rule that, unless a corporation exercising the power of eminent domain acts in bad faith or is guilty of oppression, its discretion in the selection of land will not be interfered with." (Manila Railroad Co. *vs.* Mitchel, 50 Phil. 832, 838).

What are the circumstances showing bad faith on the part of the plaintiff-appellant? The first paragraph of the resolution (Exhibit 2) recites the following:

"WHEREAS, efforts had been exerted for the purchase of the desired school sites for the barrio school of Malainen Bago and Muzon, Naic, by offering P.50 per sq. m. on both sites involving one-half (1/2) Ha. each;"

The alleged offer made to the owners of the land before the adoption of Resolution No. 35 is belied by the evidence of record. The defendants-appellees said that they were never informed or consulted about the intended expropriation of their land, and Councilor Felipe Pilpil did not take the witness-stand to refute the appellees' claim on this point. Upon the contrary, two councilors and the Vice-Mayor of Naic uniformly attested that they voted for the resolution without seeing the school site but relied mainly on the representations of Councilor Pilpil that the site is centrally located and the owners were agreeable to sell their land to the municipality. The admitted failure of the members of the local Council to view the site selected by Pilpil, as well as their omission to ascertain fro mthe landowners themselves if an offer has been made by Councilor Pilpil to buy the land from them, certainly cast doubt upon the good faith and honest intentions of the Council as a whole. As aptly commented by the lower court:

"The existence of such doubtful intention under the guise of an authority conferred by law to expropriate properties can be gauged by the procedure taken by the officials concerned. In this case, the evidence of the defendants is quite clear that when the Municipal Council passed Resolution No. 35 the members thereof on the assurances of Councilor Felipe Pilpil just agreed to the passage of said resolution without giving a chance to the herein defendants to be heard in their own rights. Municipal officials are elected on the strength of their promises to the people that they will serve them and work for their best interests. The Municipal Council of the plaintiff as a body was remiss on its promises to these people and failed to see that the rights of some citizens are trampled upon by the assurances of a fellow councilor. This practice of subscribing to the principle of the "tayo-tayo" system in the enactment of resolutions of municipal councils or other legislative bodies are dangerous precedents because it tends to deprive the citizens of their rights without due process of law. The approval of this resolution by the Provincial Board and the authority conferred by the Office of the President do not make said resolution less arbitrary. The approving authorities do not have the time and the opportunity of inquiring as to whether or not a resolution is enacted with an honest intention or with an evil eye. A resolution can be for any legitimate purpose but it can also with a stamp of legality be enacted for an illegitimate purpose. And this is the category to which Resolution No. 35 of the Plaintiff belongs. The purpose of the resolution was laudable but the means by which this resolution was enacted were illegal from the beginning."

The court below conducted an ocular inspection of the property and found that the land of the defendants is a first-class riceland and is not ideally or centrally located for school site purposes. It lies across the national highway from the barrio proper of Malainen Bago. In order to reach the school building already constructed on the land, a school child must cross the national highway and then

pass through a wooden bridge "consisting of a single piece of lumber placed crosswise over a ditch which must be the irrigation ditch feeding the surrounding areas with water." South and west of the barrio proper are big parcels of land which yield only one harvest of rice each year. The court below found that these lands are nearer the barrio proper and are accessible by barrio roads. This is another circumstance which tends to establish that Councilor Pilpil obviously took advantage of his public position and the trust which his fellow councilors naturally has reposed on him, in order merely to carry through his father-in-law's threats that the latter would see to it that the land in question would be expropriated as the site for the proposed barrio school building so that the defendants would not be able to make use of the land. It was shown by the defendants without contradiction that Blas Poblete had wanted Teodora Poblete to give the land in question to Vicencia Poblete, Blas' foster daughter, but Teodora instead gave the land to defendant Rosalina Poblete, niece of both Blas and Teodora.

However, the plaintiff should not have been condemned to pay ₱1,550.00 representing the value of the products which the defendants failed to gather from their land since October 6, 1955. The municipality took possession of the land and constructed the school building thereon in accordance with the order of the court below.

WHEREFORE, eliminating the payment of ₱1,550.00 as damages, the decision appealed from is hereby affirmed in all other respects, with costs.

SO ORDERED.

Makalintal and *Castro, JJ.*, concur.

Judgment modified.

[No. 23849-R. March 21, 1959]

ALFREDO BAÑARES, ESCOLASTICA TORRES, and PABLO M. CRUZ, petitioners, *vs.* HON. JUDGE HIGINIO B. MACADAEG and B. POSADAS & SONS, INC., respondents.

EJECTMENT; MOTION FOR EXECUTION; NOTICE OF HEARING OF MOTION MANDATORY.—*Notice of hearing of a motion for execution in ejectment cases* is required by law, not only under Rule 27 which governs service of pleadings, motions, notices, orders, etc. in general, but by explicit and mandatory provisions of Section 8, Rule 72 of the Rules of Court which are exclusively applicable to forcible entry and detainer cases. Evidently the reason for these provisions is the possibility or probability that the defendant's failure or delay in making deposit or payment of the rent is due to reasonable cause, such as acquiescence or tolerance on the part of the plaintiff.

ORIGINAL ACTION in the Court of Appeals. Certiorari with preliminary injunction.

The facts are stated in the opinion of the Court.

Augusto S. Francisco and *Alfredo R. Gomez,* for petitioners.

Deogracias G. Trinidad, for respondents.

AMPARO, *J.:*

This is a petition for certiorari praying that the orders of execution issued by the respondent Judge in two ejectment cases (No. 33569, B. Posadas & Sons, Inc. *vs.* Alfredo Bañares and Escolastica Torres; and No. 35570, B. Posadas & Sons, Inc. *vs.* Pablo M. Cruz) pending before him be declared null and void because of lack or excess of jurisdiction or because he acted with grave abuse of discretion for having issued said orders without giving the petitioners an opportunity to be heard. The petitioners also pray that a writ of preliminary injunction be issued to restrain the respondents from executing said orders pending final determination of this petition. In due course, upon a bond in the sum of ₱500.00 filed by the respondent B. Posadas and Sons, Inc., a writ of preliminary injunction was issued.

In their answer the respondents allege that the petitioners were duly served with copies of the motions for execution in said two ejectment cases, and also with notice of the hearing; that the petitioners filed motions for reconsideration of the orders of execution in which motions they had an opportunity to present their side and to explain to the respondent Judge their reasons for objecting to the motions; that the ground upon which the orders of execution were issued is the petitioners' delay in paying or depositing the rents due on the premises occupied by them belonging to the respondent B. Posadas & Sons, Inc.; and that it is mandatory upon the court

to issue orders of execution whenever the defendant in an ejectment case fails to pay or to deposit on or before the tenth day of each calendar month the rent due for the preceding month.

Petitioners Alfredo Bañares and Escolastica Torres are defendants in ejectment case No. 35569, Branch X of the Court of First Instance of Manila, and petitioner Pablo M. Cruz is defendant in another ejectment case No. 35570 of the same branch of the court, the respondent B. Posadas & Sons, Inc., being the plaintiff in both cases. The respondent Judge Higinio B. Macadaeg is the judge who issued the orders of execution now complained of.

While said two cases were pending trial on the merits, plaintiff B. Posadas & Sons, Inc., now respondent, filed on July 2, 1958, a motion for execution upon the ground that the defendants, now respondents Alfredo Bañares and Escolastica Torres deposited the rent due for the months of March 1958, on April 11 and 17; the rent for April, on May 13, and the rent for May, on June 11, 1958. On the same date July 2, 1958 a similar motion for execution was filed by the same plaintiff against the defendant, now petitioner Pablo M. Cruz, on the ground that the rent for March was deposited on April 11 and 17, the rent for April on May 13 and the rent for May on June 11, 1958. At the bottom of the last page of the motions in said two cases appears a note reading:

"Copy furnished to:

Atty. Alfredo R. Gomez
R–308 Roman Santos Building
Plaza Goiti, Manila."

There is, however, no proof of service of this motion upon Atty. Gomez, counsel for the petitioners.

In accordance with the notice for hearing, said motions were heard on July 5, 1958 but likewise no service of notice of hearing was made upon Atty. Gomez. On the same date of the hearing, said motions for execution were granted as per Annexes D and E to the petition. On or about July 12, 1958 Atty. Gomez in behalf of the petitioners filed a motion for reconsideration of said orders alleging that there was no service of copy of said motions, nor notice of hearing, and that the petitioners were deprived of their day in court in violation of the express provisions of law. The motions for reconsideration were denied in the orders of September 11, 1958.

The issue presented before the court now is whether or not the respondent Judge acted without jurisdiction, in excess of jurisdiction, or with grave abuse of discretion in granting the motions for execution in said two civil cases. After a careful examination of the record before us we believe that the said two motions for execution were heard and granted without notice to the petitioners.

The respondent B. Posadas & Sons, Inc., in its memorandum filed on January 29, 1959, states that "a copy of said motion was duly received and signed for by the authorized personnel of counsel for the petitioners." This is, however, a gratuitous allegation as no such copy was produced before this court and no explanation was made why it was not produced. On the other hand, in its answer to the petition the respondent alleges that said respondent "presented to the petitioners' counsel a mimeographed form of respondent's motion for execution wherein the number of the cases in which said motion for execution had been filed was stated". No such mimeographed form was presented to substantiate this allegation. On the contrary copies of said motions filed with the petition as Annexes A and B show that they are two separate motions, filed in cases Nos. 35569 and 35570. The note at the bottom of the last page of each of said motions to the effect that copy was furnished to Atty. Alfredo R. Gomez does not constitute service as this term is used in Rule 27 of the Rules of Court. Service of notice of a motion is mandatory under Section 4, Rule 26 of the Rules of Court, which reads as follows:

"Notice of a motion *shall be served* by the applicant to all parties concerned, at least three days before the hearing thereof, together with a copy of the motion, and of any affidavits and other papers accompanying it. The court, however, for good cause may hear a motion on shorter notice, specially on matters which the court may dispose of on its own motion." (Italics supplied).

And Section 6 of same Rule provides that

"No motion shall be acted upon by the court, without proof of service thereof."

Coming now to the notation above-quoted appearing at the bottom of the last page of each motion, said notation does not constitute service of notice.

"A mere certificate signed by a party or his attorney to the effect that a copy of a pleading, motion or other paper has been served by the adverse party, is not a sufficient proof of service under this section. Nor is an annotation, on the foot of a complaint, to the effect that a copy of the document attached thereto has been furnished the defendant, sufficient in the light of the above provision." (1 Moran, Comments on the Rules of Court, 1957 Edition, page 416).

Notice of hearing of a motion for execution in ejectment cases is required by law, not only under Rule 27 which governs service of pleadings, motions, notices, orders, etc. in general, but by explicit and mandatory provisions of Section 8, Rule 72 of the Rules of Court which are exclusively applicable to forcible entry and detainer cases. The pertinent provisions read as follows:

"* * * Should the defendant fail to make the payments above prescribed from time to time during the pendency of the appeal,

the Court of First Instance, upon motion of the plaintiff, *of which the defendant shall have notice,* and upon proof of such failure, shall order the execution of the judgment appealed from, but such execution shall not be a bar to the appeal taking its course until the final disposition thereof on its merits." (Italics supplied).

Evidently the reason for this provision is the possibility or probability that the defendant's failure or delay in making deposit or payment of the rent is due to reasonable cause, such as acquiescence or tolerance on the part of the plaintiff. In the present case had the petitioners been given their day in court they would have presented evidence that the delay in the deposit or payment of rent was tolerated or acquiesced in by the respondent B. Posadas & Sons, Inc. and that notwithstanding said delay the respondent accepted payment.

In the case of Manotok *vs.* Legaspi (77 Phil. Rep. 523, 524) the Supreme Court held that a landlord cannot demand execution if he allowed the tenant to pay or deposit the rents out of time and accepted such payment or deposit. The Court said:

"Although under sections 8 and 9 of Rule 72, the landlord, in whose favor a decision for ejectment has been rendered by the lower court, is entitled to ask for the execution of the lower court's judgment if the tenant fails to pay or deposit, on or before the 10th day of each calendar month, the rent for the preceding month, there is nothing to preclude him from waiving his right. In the present case it unmistakably appears that *appellee had waived the right by allowing appellants to pay the rents out of time and by accepting the belated payments* for the purpose of staying the execution of the judgment. He is estopped from asking the execution * * * ." (Italics supplied).

PREMISES CONSIDERED, we are fully satisfied that no notice of hearing of the motions for execution has been served upon the attorney for the petitioners; that the court committed a grave abuse of discretion when said motions were granted and the orders of execution were issued, having thereby deprived the petitioners of their day in court in violation of the explicit provisions of Section 8, Rule 72 of the Rules of Court. Accordingly judgment is hereby rendered granting the petition; the writ of preliminary injunction heretofore issued is made permanent, and the orders of execution of July 8, 1958 (Annexes D and E, petition) are declared null and void and set aside. With cost against the respondent B. Posadas & Sons, Inc.

SO ORDERED.

Gutierrez David, Pres. J., and *Hernandez, J.,* concur.

Petition granted.

LEGAL AND OFFICIAL NOTICES

Courts of First Instance

[FIRST PUBLICATION]

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF BATANGAS
EIGHTH JUDICIAL DISTRICT

NATURALIZATION CASE NO. 730.—*In the matter of the petition for naturalization.* JOSIN UY, *petitioner.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the onorable Solicitor General, Manila, and to the petitioner Mr. Josin Uy, Batangas, Batangas, and to all whom it may concern:

Whereas, a petition for Philippine citizenship, pursuant to Commonwealth Act No. 473, as amended, has been presented in this Court by Josin Uy, who alleged among other things, that he is a Nationalist Chinese citizen; that he was born in Lipa City, on June 10, 1935; that he a salesman of Golden Star Grocery at Sto. Cristo Street, Manila owned by Chua Lin, in which he derives a monthly income of ₱300.00; that he is married to Felisa Lee; that he speaks and writes English and Tagalog languages; that he has resided continuously in the Philippines since birth or for approximately 24 years, and in Batangas, Batangas, for a term of one year, at least, immediately preceding the date of the petition; that he believes in the principles underlying the Philippine Constitution; and that he cites Messrs. Arnolfo M. Espino, Elpidio B. Alea, Atty. Eliseo Austria, and Fausto C. Mercado, as witnesses whom he proposes to introduce in support of his petition.

Therefore, you are hereby given notice that said petition will be heard before this Court, at Batangas, Batangas on June 16, 1960 at 8:00 o'clock in the morning.

Let this notice be published at the request and expense of the petitioner, in the *Official Gazette*, for three consecutive issues thereof, and once a week for three consecutive weeks in the *Nueva Era*, a newspaper of general circulation in Batangas, Batangas, where the petitioner resides, and also let the said petition and this notice be posted in a public and conspicuous place in the office of the Clerk of Court.

Witness the Hon. Manuel P. Barcelona, Judge of this Court, this 19th day of October, 1959.

ZOSIMO MONTALBO
Clerk of Court

[38–40]

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF BATANGAS
EIGHTH JUDICIAL DISTRICT
FIRST BRANCH

NATURALIZATION CASE NO. 731.—*In the matter of the petition for naturalization.* UY KIM YOK, *petitioner.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor General, Manila, and to the petitioner, Mr. Uy Kim Yok, Batangas, Batangas, and to all whom it may concern:

Whereas, a petition for Philippine citizenship pursuant to Commonwealth Act No. 473, as amended, has been presented in this Court by Uy Kim Yok, who alleged among other things, that he is a Nationalist Chinese citizen; that he was born in Rosario, Batangas, Philippines on September 7, 1937; that he is a salesman of the Motor Auto Supply, wholesale Department at Reina Regente Street, Manila, in which he derives a monthly income of ₱150.00; that he is single; that he speaks and writes English and Tagalog languages; that he has resided continuously in the Philippines since birth or for approximately 22 years; and in Batangas, Batangas, for a term of one year, at least, immediately preceding the date of the petition; that he believes in the principles underlying the Philippine Constitution; and that he cites Messrs. Luciano L. Perez and Teodoro M. Solis and Misses Aurora M. Babasa and Vicenta J. Nacu as witnesses whom he proposes to introduce in support of his petition.

Therefore, you are hereby given notice that said petition will be heard before this Court, at Batangas, Batangas, on June 17, 1960, at 8:00 o'clock in the morning.

Let this notice be published at the request and expense of the petitioner, in the *Official Gazette*, for three consecutive issues thereof, and once a week for three consecutive weeks in the *Nueva Era*, a nwspaper of general circulation in Batangas, Batangas, where the petitioner resides, and also let the said petition and this notice be posted in a public and conspicuous place in the office of the Clerk of Court.

Witness the Hon. Manuel P. Barcelona, Judge of this Court, this 20th day of October, 1959.

ZOSIMO MONTALBO
Clerk of Court

[38–40]